ATROCITIES AND THE HUMANITARIAN CRISIS IN KOSOVO

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BEFORE THE

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ATROCITIES AND THE HUMANITARIAN CRISIS IN KOSOVO

TUESDAY, APRIL 6, 1999

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ATROCITIES AND THE HUMANITARIAN CRISIS IN KOSOVO

TUESDAY, APRIL 6, 1999

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
WASHINGTON, DC

The Commission met at 10:30 a.m. in room 2172 Rayburn House Office Building, the Honorable Christopher H. Smith, Chairman, presiding.

Commission Members present: Hon. Christopher H. Smith, Chairman; Hon. Steny H. Hoyer, Ranking Member.

Witnesses present: Ambassador William G. Walker, the Kosovo Verification Mission, OSCE; Nancy Lindborg, Vice President, Mercy Corps International; Dr. Jennifer Leaning, Physicians for Human Rights; Mark S. Ellis, the Central and East European Law Initiative (CEELI) and the Coalition for International Justice (CIJ).

OPENING STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN

Mr. SMITH. The Commission hearing will come to order.

Good morning. According to the March 26, 1999, State Department Facts Sheet, "U.S. and NATO Objectives and Interest in Kosovo," NATO's military action has three objectives: one, to demonstrate NATO's seriousness of purpose; two, to make clear to Milosevic the imperative of reversing course to deter Belgrade from launching an all-out offensive against helpless civilians; and three, seriously to damage Belgrade's military capability of taking repressive action against Kosovars.

To be brutally honest, to date none of those objectives has been achieved. As a matter of fact, the situation has gotten exponentially worse for the ethnic Albanians streaming into Albania and Macedonia and for the unlucky remnants still in Kosovo.

The whispers we heard before and in the early days of the bombing—that some of America's top military brass had serious reservations and doubts about the efficacy of air strikes, and the potential impact of ethnic Albanians in Kosovo at this stage in the process—is now featured fare on page one in the Washington Post. Yesterday, Post writer Bradley Graham and Joint Chiefs at Air Strategy wrote, "The Pentagon's 4-Star Officers, meeting in closed door sessions in the Pentagon's Secure Tank Room, argued that the Administration should use more economic sanctions and other non-military levers to compel Belgrade to make peace. Ultimately, the Chiefs agreed unanimously last month to go along with the air strikes . . . ." The article

goes on to say that "12 days into the bombing campaign the military leaders remained doubtful that air strikes alone can satisfy the larger political objectives, put forward by Clinton and other NATO leaders, of stopping the violence in Kosovo and driving Yugoslav President Milosevic back to the bargaining table. In matters of war, I believe no one should brush aside the doubts of these top generals and leaders."

Last night, I picked up my copy of Newsweek and read the incisive piece "How to Fumble Into War," about how the Clintonites thought Milosevic would cave at the threat of cordite. This is the inside story, by Michael Hirsch and John Barry, on why they got it wrong. The article reveals a series of what they call missed opportunities for peace that, if true, raises serious questions as to how this crisis, now a war, was handled. Since there are no signs of the conflict's abatement any time soon, knowing the details and the thinking behind the process that got us here may suggest what path should be chosen to help mitigate this human tragedy.

Mr. Hirsch and Mr. Barry write, "October, in fact, may have been the first missed opportunity for a more enduring peace. European intelligence in Belgrade had strong suggestions then that Milosevic was not entirely adverse to NATO troops monitoring a cease-fire, an idea proposed by the French, British and Germans. The real problem, diplomats say, was back in Washington. The U.S. Administration was terrified of how the GOP-run Congress might react to the prospect of U.S. troops in Kosovo. The midterm elections were near, Clinton feared losing seats in the face of threatened impeachment. The Pentagon, too, was fretting over—the alternative was a short-term Holbrooke compromise, 2,000 unarmed peace verifiers. Clinton refused to even risk U.S. troops in an extraction force that the Europeans hold in Macedonia in case those verifiers needed rescuing."

Let me state clearly for the record that I sincerely hope there is no truth whatsoever to Newsweek's charge that Mr. Clinton missed an opportunity for a more enduring peace because the midterm elections were near, and he feared losing seats in the face of a threatened impeachment.

Now that bombs are dropping and the Kosovars are being murdered or are fleeing by the hundreds of thousands, I invite our witnesses today to give us the benefit of their views as to what NATO should do and how it should go about trying to mitigate this crisis.

Is there any chance anytime soon of a negotiated settlement? Are we doing enough—providing enough food, clothing, medicine and shelter—for the refugees who have been displaced? How do we reach those who have been left behind, those who, perhaps, were in hospitals as the crisis worsened? What is your view of Pope John Paul II and the eight American Cardinals and Patriarch Pavli and other Christian leaders who have called for a cease-fire and a negotiated settlement? How can we embrace the Pope's "humanitarian corridor" suggestion?

I believe our witnesses today are part of the solution in the Balkans and have risked much to promote peace, human rights, and refuge for the suffering. Ambassador William Walker, head of the Kosovo Verification Mission of the Organization for Security and Cooperation in Europe, will describe the situation as he saw it on the ground prior to the air strikes, as well as the information which his mission, withdrawn to Macedonia, is still able to gather.

We hope the Ambassador can provide some thoughts on what the OSCE can or should do regarding Kosovo and comment on the larger issue of dealing with Milosevic, based on possible outcomes of the current NATO action. The OSCE is, in many ways, the collective conscience of Europe; and its growing operational responsibilities are proving critical to many troubled areas within the OSCE region.

Ambassador Walker has a distinguished diplomatic career. Most recently, he demonstrated his integrity in the Kosovo village of Racak and reported on what he saw: a massacre.

Following Ambassador Walker, a panel of experts will focus on the refugee situation, which is becoming increasingly untenable. Their testimony will also record some of the atrocities which have been occurring in Kosovo and suggest what the international community should do to hold accountable those responsible for this situation.

First we have Nancy Lindborg, Vice President of Mercy Corps International. Mercy Corps has been a leader in the humanitarian response in Kosovo, well before Kosovo was high on the U.S. foreign policy agenda. Ms. Lindborg gave insightful testimony at a hearing the Helsinki Commission held in Kosovo one year ago, and she recently visited Mercy Corps field staff in the Balkans.

Good to have her here today. We look forward to her testimony.

Next, we will hear from Jennifer Leaning, Senior Research Fellow at the Harvard Center for Population and Development Studies, and a member of the Board of Physicians for Human Rights. In that capacity, Dr. Leaning has visited Kosovo on two occasions, days before the air strikes, documenting systematic and pervasive abuses of ethnic Albanians through the health care system. Such abuses are outrageous, and I applaud her efforts to document them so that the world knows what is happening and corrective action can be taken.

And finally, we have Mark Ellis, who is the Executive Director of the American Bar Association's Central and East European Law Initiative, and President of the Board of the Coalition for International Justice. The Coalition has been a vital resource to those advocating the prosecution of war criminals, crimes against humanity, and genocide throughout the former Yugoslavia and around the world.

Mr. Ellis is not only a legal expert; he knows the region well, and I, too, look forward to his thoughts on what can be done to bring justice to the region.

I'd like to thank our witnesses again for being here and yield to my friend and college, Mr. Hoyer, the Ranking Democrat on the Commission.

OPENING STATEMENT OF HON. STENY H. HOYER, RANKING MEMBER

Mr. HOYER. Thank you very much, Mr. Chairman. I want to thank you for holding this timely hearing, and I want to welcome Ambassador Walker and the distinguished panel to whom you referred earlier.

Ambassador Walker, I want to thank you personally for your bravery, your fortitude, and your leadership of the OSCE's Civilian Verification Mission in Kosovo. You've traveled a long and sometimes treacherous road since we first met in Oslo last December, and I'm pleased to be able to welcome you here to Washington.

Mr. Chairman, as you know, many times I have reasoned on the Floor of the House of Representatives and talked about war crimes in Bosnia. I've talked about Slobodan Milosevic, branded by the State Department as a war criminal. I've talked about the necessity of confronting Slobodan Milosevic—not the Serbian people, but the government headed by Slobodan Milosevic in reality, if not technically.

But the leader of the Serbian people is a war criminal whom the civilized community is now confronting—confronting in a way such that he clearly understands the West is serious, and the West will not tolerate genocide in Europe.

So, we are now doing that. The delay, in my opinion, has been very costly. You and I, Mr. Chairman, asked for more decisive action much earlier than it occurred. Sadly, in Bosnia, as all of us know, 250,000 people were killed, and over 2 million refugees were created by ethnic cleansing, the greatest tragedy in Europe since the 2nd World War.

Now, the tragedy continues in Kosovo. Thousands of people, including women and children, have been killed; and hundreds of thousands of refugees are streaming across Kosovo's borders, many testifying to the terror and atrocities that they have suffered at the hands of Serbian forces.

Mr. Chairman, as you will recall, during the conflict in Bosnia President Bush issued what has come to be known as the Christmas Warning to Slobodan during 1992. The President made it clear that if a conflict erupted in Kosovo caused by Serbian action and aggression, the United States was prepared to employ military force against the Serbians in Kosovo and in Serbia proper.

President Clinton reiterated that warning several months later. That is why I supported taking action as soon as the conflict in Kosovo began in early 1998. In retrospect, it is a mistake that we did not act then; but in fairness, there was no consensus in the West—in this country, in this Congress—to act at that time.

There were those who say that the air strikes have caused an exacerbation of the crisis and the mass expulsions. While this may have accelerated the process, no one who watched Bosnia should doubt that the 40,000 troops massed by Slobodan Milosevic had as its absolute proximate intent what we see today.

I agree with Secretary Cohen's assessment that past is prologue. Milosevic had massed those 40,000 troops and accompanying armor in or near Kosovo. His history—since early 1998 in Kosovo and over the past decade since becoming President in 1989, in Croatia, and in Bosnia—is that he uses his forces against civilians.

Having made the commitment to stop this madness, the United States and our allies must see this action through. There is no alternative to success. If we fail to see this through to the end, it will give not only to Milosevic but to every tyrant in the world the thought that he or she can proceed accordingly. It is the right thing to do, and we must, Mr. Chairman, bring to justice all of those responsible for the crimes committed in Kosovo.

You and I, Mr. Chairman, have strongly supported the War Crimes Tribunal in The Hague. The reason for that is that we must stop the cycle of violence and retribution. Those who talked about the Ottoman Turks and those who talked about centuries of history of injus-

tice which was not redressed and, therefore, who repeat it, will be prologue themselves if we do not bring to justice those who have murdered and committed war crimes against humanity.

It is through the work of people like those appearing before us today, Mr. Chairman, and the organizations they represent, that we bear witness to the ongoing atrocities in Kosovo. We must bear witness, we must learn, and we must work to prevent such brutality in the future. That is why there is no alternative to success.

Mr. Chairman, I regret that the President early on said that ground troops would not be used. I think that was a significant tactical and strategic mistake, because it gave a sense to Milosevic that we would engage only in the air. The majority of the American public believe that will not work. I share that view. I have supported from the very beginning—and long prior to this time—the use of troops if troops were necessary.

The poet Maya Angelou, speaking at President Clinton's inauguration, reminded us that, "History, despite its wrenching pain, cannot be unlived, and if faced with courage need not be lived again." After the 2nd World War we said never again, but it was not the premise that there would never again be tyrants like Hitler, who would savage their own people.

In Helsinki, Mr. Chairman, we adopted a critical premise, and the premise was that a nation not only must treat the citizens of other nations consistent with international law, but they must treat their own citizens consistent with international law. That was a radical change. It was a change born of the inaction preceding the 2nd World War, the inaction which led, perhaps, to millions of deaths.

It is my fervent hope, Mr. Chairman, that we will have the courage to ensure that the recent past endured by the people of Croatia, Bosnia, and Kosovo will not be prologue for further violence in Southeastern Europe.

Mr. Chairman, I look forward to hearing our witnesses, and I thank you again for scheduling this hearing.

Mr. SMITH. Thank you very much, Mr. Hoyer.

Ambassador Walker, thank you again for being here. Your full statement will be made a part of the record, but please proceed however you wish.

TESTIMONY OF AMBASSADOR WILLIAM G. WALKER, THE KOSOVO VERIFICATION MISSION, OSCE

Amb. WALKER. Thank you very much, Mr. Chairman, Mr. Hoyer. Let me begin by expressing my appreciation for the invitation to appear here today. I'm back in the country for some consultations and to do my income tax, so it gave me a good excuse for coming back.

I do want to preface my remarks by stating that I am a career foreign service officer with the Department of State of 38 years tenure; but as you mentioned, sir, I am presently on secundement to the Organization for Security and Cooperation in Europe, and I'm appearing before you today as the head of the Kosovo Verification Mission in Exile, I guess.

I thought I'd give you a few words about the background of the mission, just to remind everybody what we went in to do. A few words about what we were doing as we progressed over the last six months, and then a couple words about what we are trying to do as we are in exile in Macedonia and doing some work next door in Albania.

As you mentioned, sir, the OSCE mission was put together back in October of 1998 after a number of agreements were reached. First, Ambassador Holbrooke and President Milosevic struck an oral agreement, and then the OSCE signed a formal agreement with the FRY; and, of course, Generals Clark and Nowman also went in and signed an agreement with the Minister of Defense in Belgrade.

There were a number of principles that the government adopted for the mission as we went in with the very high hopes that we were going to be able to bring some peace and stability to Kosovo. The first principle was that we were going in to verify a cease-fire, plus we were going to try and do some things in terms of putting together an election process, as well as helping to reform local police—a whole panoply of other tasks, but the principle task was one of verification.

Another principle we went in with was that we were going in as 2,000, as you stated, unarmed verifiers; and the government in Belgrade assumed and kept claiming that they were totally responsible for the security of all members of my mission. Cooperation was promised by both sides, both by the government in Belgrade—in the person of Mr. Milosevic himself on several occasions directly to me but also in terms of the other side of the conflict—amd the KLA; both of them promised that they would fully cooperate with my mission as we tried to go about our business of verifying that cease-fire.

Another principle that we went in with was equality of treatment, that we were not to take sides, that we were supposed to be impartial as to what was going on and tell the world in a non-partisan fashion as to what was happening in Kosovo.

And the overall objective of our mission was essentially to buy time for the negotiation process that was underway, headed by Ambassador Hill and others.

We went in, as I say, in mid-October, and through November, through December, we were essentially involved in the buildup of our mission. This was by far the biggest effort that the OSCE had ever undertaken. I think we were bigger by a factor of ten than the nearest-sized OSCE mission, the one in Croatia; and we were also four times bigger than all other OSCE missions around Europe combined. So this was a very, very big operation for the OSCE.

I would have to say in honesty—and I think that people in Vienna would agree with this—that the OSCE was somewhat unprepared to mount an operation of this size, and we were essentially designing the operation as we went ahead.

By mid-December, I would say, the mission had essentially been established. We started to adopt different tasks from those that were on our initial platter. There was a confrontation up in the Podujevo area to the north of Pristina in which we saw the two militaries facing each other off and threatening to go at each other. We started putting our people in between the two and actually in the command centers of both the VJ, the Yugoslav Army, as well as the MUP, the Yugoslav Special Police, as well as up in the headquarters of the KLA

up in the hills, trying to talk these people into not firing at each other, not provoking each other, trying to maintain the cease-fire that we were there to verify.

Also in mid-December, we got involved in another task that no one had foreseen when we went in, which was trying to negotiate the release by both sides of people they had taken hostage, prisoners, this sort of thing; and we were somewhat successful in arranging for the KLA to release a number of Army soldiers that they had captured, and a reciprocal action by the government to release a number of KLA people that they had captured.

When I was last in Washington last January, our mission was up to about 1,200 internationals, and we felt that we were making a difference. We felt that we were finally up and running. I was quite optimistic when I came through Washington last January that we were making a difference and were heading in the right direction.

In the January/February time frame—I think this was when we saw our mission in its most robust posture, and at that point I think we were making a significant difference. You might remember—and it's already been mentioned by you, Mr. Chairman—that on January 15 there was the massacre in Racak. As you all have already mentioned, I was able to go up the following day and see the bodies strewn in that ravine, talked to some of the survivors down in the village, and it was as plain as the nose on my face—which is a pretty good-size nose—exactly what we had seen. We had seen the end result of a very, very nasty massacre, one that in later days has been made to look relatively insignificant by the numbers that are coming out of Kosovo over the last few weeks. But up to that point, it was a very significant event. I was really quite proud that the OSCE mission was able not only to denounce that as a massacre and point the finger of responsibility at the security services which had committed it, but also to call for the ICTY to come in and try to do a thorough investigation and bring those responsible for that massacre to justice.

But the Racak massacre and the aftereffects of statements that we made in Kosovo—in pointing the finger at whom we thought were responsible—had a number of significant repercussions, one of which was that the government of President Milosevic quickly saw that the KVM was a threat to him, that we were, in fact, willing to speak out and direct our fingers at those responsible for acts. The cooperation, which had always been minimal to start with from the government in Belgrade, dropped away to—it disappeared completely. So, from the middle of January on, we saw very, very little in the way of either cooperation or less than anger and hatred directed at my mission.

Nevertheless, the buildup of the mission continued, and we were able to establish field offices. We were able to go out and establish five regional centers, a couple of dozen smaller offices in provincial cities and towns, and another dozen or so in even smaller villages, because we quickly discovered that where our people were, where our little orange vehicles were, bad things tended not to happen; and where they were not, bad things continued to happen, most often emanating from the government side.

Another thing that happened in January was that the international media moved into a very, very positive posture vis-á-vis my mission. At the beginning of the mission, there was a lot of criticism, claiming that we were out there just to look through binoculars and observe what was going on but were unable to take action if we saw bad things

happening. With Racak and some other things, I think the international press started printing positive news about the mission—which was all to our liking, obviously.

They also saw that we were doing other things besides the more dramatic. We were going into villages and being able to get electricity back and hooked up, water—that sort of thing. We were able to do a lot of mundane things that normally do not make headlines, but that the press saw was happening. They saw we were making a difference, and we were getting very favorable press.

The Albanian population, that is so much the victim of the last six months or so, increasingly saw the OSCE KVM vehicles as a bit of a security blanket. As I say, when our orange vehicles would drive through population centers composed of Albanians, we always found very positive receptions: kids out waving at us, giving us good luck signs, this sort of thing. And in every village we went into containing Albanians, we would hear about how much they appreciated our presence.

The KLA itself—the fighting arm of the Albanian population—was also increasingly trusting of our presence; although they did some things that were detrimental to our mission, including wounding one of our international staff, unlike the government they were willing to take responsibility when they had done something like that. They would tell us if they had detained people, they would tell us if they had prisoners, they would tell us if they were doing things that were detrimental to the mission—unlike the government which never took responsibility for anything.

As I say, starting with the Racak aftermath, President Milosevic saw our mission as a risk, a danger, to him and ceased almost all communication with us, far less any cooperation with us. So by the end of February, the OSCE KVM had acquired an extremely favorable image among certain people: among the Albanian community, which saw us as a protective force; and among the NGOs, which saw the KVM as a cooperative partner in some of the things they were trying to do. I think I've mentioned the press corps, which saw the KVM as more activist than they probably thought we were going to be at the beginning, and even among some Serbs there: those who wanted an end to the violence, who wanted missing relatives to be found, for their fates to be determined.

But in mid-March, I would say, the environment in which we were acting turned overtly and increasingly hostile. The Belgrade media, which was never friendly at the beginning, turned vitriolic in its hatred of the KVM vis-á-vis certain personalities within the KVM, myself included.

The local cease-fire breakdowns, which we had seen in places like Podujevo and some of the other parts of the country, turned into a province-wide collapse of the cease-fire. There were massive troop movements, equipment movements—you mentioned the 40,000 that were poised north of the Kosovo border—and those buildups in the north as well as in the south came with no explanation to the KVM, no notification, as had been agreed to in the October agreements. In other words, they did it in total defiance of what they had agreed to do vis-á-vis moving troops, moving equipment, this sort of thing.

In mid-December, we counted up to five to six times more combat units out and about than the agreements called for. You might remember that in the agreements they were allowed to keep three companies of combat troops out and about in Kosovo at any given time. We found they were up to 15, 16, and even more, out and about without telling us.

In mid-December, we saw them prepare for demolition tunnels and bridges that would have been exit routes for our getting out or entry routes for anyone coming in, such as NATO.

We saw by mid-December increasing evidence of civilian 'home guards' being armed by the security forces, weapons being handed out. We saw increasing evidence of the paramilitary forces; the famous Arkan and his people started making their appearances in mid-December.

We also saw a very disturbing trend, which was an increase in arrogance by the troops, by the Army, by the MUP. They would shell villages, they would loot, they would torch villages. They would routinely beat people in the villages and do so in front of our verifiers, in front of the media, apparently with no shame as to what they were doing.

Another disturbing trend in mid-December was that the violence moved into the population centers, moved into places such as Pristina, where we started seeing acts of terrorism, never attributable to anyone, but very, very disturbing that it was coming into the city.

So by mid-December we were finding it increasingly difficult to perform our basic mandated tasks. We were denied access to trouble spots. We would hear there was shooting going on, or a village was under attack. We would try to get our people out there, and most often the MUP or the VJ would stop us from going in. Since they were armed and we were not, it was very difficult to push forward. Occasionally, the KLA also denied us access.

There was also an increase in physical threats, abusive behavior becoming normal against our people. And the risk of serious injury to unarmed verifiers, in fact, became a statistical likelihood.

In March, the Chairman in the office of the OSCE in Norway, the Foreign Minister of Norway, Knute Volleback, decided that we had to pull out the mission. Now why did he decide this? It was because the mission was reduced to witnessing FRY authorities achieving their aims forcibly and incrementally, with little corresponding evidence that we were any longer influencing or containing brutal behavior.

So we were unable to form the verification tasks or any of the other tasks; and we were an increasing security threat to the people—over 1,400 people from 38 countries of the OSCE.

I must say the most emotional experience I've had in my past 38 years of service was a few hours after the Chairman in office called me and told me we were going to have to evacuate. I called together the local employees, Serbs and Albanians—we had over 1,500 of them. I called together those that were in Pristina at headquarters to inform them that we were pulling out; and I must say it was a very, very sad occasion to tell these people who had worked so well, so diligently for peace in their community, for us to tell them that we were leaving them behind, which we had to do.

It was a very emotional meeting. One of the more important things and most prophetic things I said was, "I hate to tell you this, but things are going to get a lot worse before they get better." There were a lot of tears in the room. There was almost a stunned silence among most members of the staff. They were very emotional, but afterwards I don't know how many of them came up to me and said, "We hate the OSCE go; we know why you are going, however. We understand it; we accept it."

The situation since we left—you've all read the headlines and you know what's in the papers, but let me tell you what we did. We got 1,400 people, internationals, in 400 vehicles out of Kosovo in less than seven hours. There was a great deal of concern in the European capitals—as well as, I assume, in the North American capitals—that we would be interfered with, that we would encounter opposition from either the government not letting us get out, wanting to hold us hostage, or local populations trying to impede our exit, knowing what might come next.

Much to our surprise, and, obviously, much to our feelings for our own safety, we got out very, very quickly; and I have to think in retrospect that the government wanted us out of there as quickly as we could so they could do what they subsequently did. In fact, what they subsequently did started almost to the hour when we started leaving Kosovo. As we were pulling out, some of our verifiers coming out in their orange vehicles spotted tanks, armored personnel carriers, troops, moving on into the cities where they had not been in evidence before. So within minutes of our departure, the VJ and the MUP were moving into the void.

I think it was from that very moment—if not well before that—that the ethnic re-engineering, as it is now being called, ethnic cleansing program, began. I certainly agree with Mr. Hoyer that this was not something that awaited the beginning of aerial bombardment. It had started well before; it had been planned well before. It might have accelerated as a result of the aerial bombardment, but it was not something that was precipitated or caused by the bombardment.

Another thing that has happened since we left was, we have seen tremendous evidence of the rage that was within the government, and the VJ, and the MUP, against the KVM. They have trashed our facility; they have harassed and beaten some of our people. They have killed some of our people. There have even been attacks against those places where we used to hang out. There were very few restaurants in Pristina that we could go to; the few that we went to had been burned to the ground in the aftermath of our departure.

There is, obviously, as I said, this full-scale brutal ethnic cleansing, of killing, expulsion of people, what is going on over the last three weeks and what goes on today. Our mission is now, essentially, in Macedonia, but we are still functioning as a mission.

A week ago, just before I departed for economic reasons—as well as trying to keep 1,300 people busy when there was much less to do—we had reduced the mission to about 250, but with recent events we are starting to bring back people. We are now up to about 300. We are preparing ourselves, we are planning, we are hoping to go back in as soon as we possibly can; and the structure of our mission has been preserved. We are also loaning out our people: these 50 that have come back, plus a good number of the 250, we are putting under the

auspices of UNHCR and others. We are trying to do some border monitoring, and we are certainly trying to work with the refugees. We are trying to keep the avenues of information flowing, open. We are doing a lot in terms of telephoning back in with due regard to the safety and security of the people we are calling but, nevertheless, trying to keep those avenues of communication open so we can get some idea of what's going on back in Kosovo.

I think we are still making a difference, albeit a different difference from what we were able to do when we were in Kosovo.

I've learned a number of personal lessons from this. I'll just go down one or two of them. I would like to take your questions. The lessons I've learned is, unarmed verification with no enforcement mechanism at your side just doesn't work. We were dealing with—I think we were the only people in Kosovo that were unarmed; and although I have to admire the bravery and the guts of some of my people, putting themselves between two sides heavily armed and shooting each other, or prepared to shoot each other, I think to go back in you can go in only with an armed body at your side.

In spite of what some people think, I believe that the lessons learned from previous missions—I've got a lot of people on my staff from Bosnia, from Rwanda, from other peace-keeping missions around the world; you've got to be very, very careful about applying the lessons learned in those places to the present situation. It really is a very different, unique situation, and you have to look at it as such.

Another lesson I have learned is that attempting to be balanced in such a mission, where one side is consistently far worse in its behavior than the other side, also doesn't work. You really do have to call them as you see them, even if that gives the impression of not being as non-partisan as you originally thought you could be.

With all those things, let me close by saying that my mission is still in Macedonia, albeit reduced. Everybody who left—to a person from 30 some countries, when they left—assured me they hated to come out; they want to go back in, they are terribly concerned and disturbed by what is going on since we left. They are very fearful for the well-being of those people we left behind, especially those who were working with us to bring peace and security to Kosovo.

We are ready to go back in. We want to go back in, and I truly believe we will go back in.

With that, let me say I'd appreciate any questions you might have for me, sir.

Mr. SMITH. Thank you very much, Ambassador Walker.

Let me say that many of us applauded you openly. I think it was very consistently a bipartisan effort for you to call them the way you saw them. That was one of the things that I think singled you out: you didn't play that game of saying there's one on this side and one on that side, a bogus game of trying to show a sense of equality. I think that has been part of our problem in the Balkans right from the very beginning, when the fighting first began versus the Croatians. There were people trying to say, "Well, they are bad, and they are bad. There is an aggressor, and we know who the aggressor is. The chief aggressor of all happens to be in Belgrade with the name of Milosevic."

It's interesting you point out that being unarmed doesn't work. I would be interested in knowing . . . . I think we learned that with UNPROFOR as well. They were armed, but they certainly had a man-

date that was weak and did not give them the capability to in any way protect people, especially in the safe havens—which turned out to be a very cruel joke, almost a staging area for further atrocities.

We've had hearings in the Commission, as well as in my Subcommittee on International Operations and Human Rights, where we've heard from people who were there, who saw loved ones taken away on busses while armed UNPROFOR personnel stood by and actually aided their passage to the next world. So, I really think your comments are very well taken.

In terms of going back, though, what would the mission look like if it were unarmed? Would you be in the accompaniment of NATO enforcers? Is that the way you would envision redeployment?

Amb. WALKER. Yes. I think we are planning based on the Rambouillet agreement, which calls for the OSCE to go in and be, essentially, in charge of sort of the civilian part of the agreement—elections, reform of the police, reconstruction, institution building, all those things—but obviously, as that agreement states, it would be very, very necessary to have an implementing force at our side, and that in the context of Rambouillet would be a NATO force.

Mr. SMITH. What has happened to the Kosovars, both Serbian and ethnic Albanian, who worked for the missions who were left behind? Were they given an opportunity to leave? Did they choose to stay? You mentioned that some have met some cruel fates. Do you have information on how many have been hurt?

Amb. WALKER. I don't have any real good numbers; I just know that several of my people that were on my security detail were killed. Almost all the ones we have talked to have either been called in for questioning—a good number of them have been physically abused.

When we left, it was a very, very painful decision to have to make as to whether or not we could take out local staff. It always is in an evacuation of this sort; but given that they are Yugoslav citizens, given the fact that there were 1,500 of them with families, et cetera, most of them would have chosen—although we didn't do a poll of any sort—would have chosen to stay behind. And, as I say, we are now finding many of them are coming out in the exodus, trying to get out after having had bad experiences remaining behind.

But the government undoubtedly targeted people from KVM, as well as from the Diplomatic Observation Missions of some of the countries, the US KDOM; some of their people met the same sort of treatment at the hands of the government.

Mr. SMITH. Mr. Ambassador, the estimated number of displaced persons in Kosovo before the air strike was 450,000, and that number has swelled now to 830,000. No one has absolute hard numbers; these are all estimates.

Some of the group, or some of the people that I think we are most concerned about—as I am sure you are as well—are the weak, the frail, the elderly, those in hospitals who could not take to the roads. In an ironic sort of way, those who are actually making it to the border are probably the strongest and those with the most stamina, although many of them have died along the way as well. But how many are left behind, and what is their fate? Do we have any current information on them? We'll be hearing from the Physicians for Human Rights shortly about the atrocities in hospitals. Perhaps you could speak to that.

Amb. WALKER. Well, in terms of how many are left behind, I don't think anyone has a good figure on that because there hasn't been a census conducted in Kosovo for a very long time; and there's been a lot of population shifts over the last ten years or so.

One of the things we were hoping to do when we go back in, in preparation for an electoral process, was to conduct a census to see how many people are actually in Kosovo.

President Milosevic, the first time I met him in my present capacity, tried to convince me that all these statistics—about 90 percent Albanians and ten percent Serbs—were ludicrous. He tried to convince me, in fact, that the Albanian population was less than 50 percent, and that a majority of the population were Serbs, Hungarians, Gypsies, Egyptians—all sorts of other ethnic denominations.

But figures as to how many are there, how many have stayed behind, are extremely rough at best. The population prior to this recent exodus was supposedly about 2 million; and if your figures are correct, then you are talking about 1.2, 1.3 million still in Kosovo, of whom, again, the vast majority, I'm sure, are Albanians.

Mr. SMITH. Let me ask you this. In my opening I pointed out—and I know you've heard it as well—that a number of religious leaders have called for cease-fires and for an attempt to jump start the negotiating process. In your very rich experience of having worked not just in Kosovo but elsewhere in your long diplomatic life, do you think there is an opportunity here, or is there any window that you see, any avenue that might lead to a negotiated settlement?

Amb. WALKER. Well, I'm usually an optimist, and I usually see negotiations the best way to end conflicts. As you mentioned, my experience in El Salvador at the end of a ten-year civil war when a lot of people thought negotiation was impossible—given the sides were so far apart and the war had been so bitter—nevertheless, there was a point at which both sides recognized that further violence was not the way to solve the problems.

To answer your question, sir, I do not see, at the present moment, an opportunity for getting Mr. Milosevic to seriously negotiate anything vis-á- vis Kosovo. I think he is showing by his actions exactly what he thinks of that province and what he thinks of the people there.

Mr. SMITH. Just one question with regards to the make-up of the observers, the members of your mission. There were press reports that some of the Russian members who were deployed were members of the Intelligence Service. Obviously, you have to take those whom you are given; and in terms of the people that will serve, I'm not sure you have any say as to which country they will come from. What was your view on that? Were they doing reconnaissance? Was there any evidence that they were aiding and abetting the Serbs? Or were they people who were genuinely committed to the mission?

Amb. WALKER. I found them genuinely committed to the mission. We had over about 100 Russians. I was disappointed when they pulled out sort of unilaterally; just before I left Macedonia, they pulled their people out with the commencement of the bombing.

But both in my previous experience in Croatia and Eastern Slovania, as well as in my mission in Kosovo, I had a good number of Russians by my side. One of my deputies in Kosovo was a Russian Foreign Service Officer, and I found them to be very committed to what we

were trying to do. Now, whether or not there were other motives involved, or other activities involved, I had no evidence of that whatsoever.

Mr. SMITH. I'd like to turn over the questioning to Mr. Hoyer.

Mr. HOYER. I was pleased to hear your response to Mr. Smith's last question. The troops on the ground in Bosnia, who are working with Russian troops side by side, give the same response; and, as a matter of fact, one of the most positive things about the peace-keeping mission in Bosnia is the relationship between U.S. and Russian troops worked closely together, and I'm glad to hear that was also the case with respect to the civilian Russian complement of the KVM.

Mr. Ambassador, you've met with Milosevic; I've had the opportunity of meeting with Milosevic myself, in Belgrade some years ago. I went to Pristina and met with the gentleman who was in charge of Milosevic's mission in Pristina and asked him if there was anybody, anybody in Kosovo with whom he felt he could sit down at the table and bring a negotiation resolution to the issues. He would not name one name in all of Kosovo of—if there was 2 million, and we are talking about 90 percent, 1.8 million Yugoslavs of Albanian extraction—that he would mention as a possible interlocutor. That was, I think, in '92 or '93.

In that context, if Milosevic remains—you said in response to Mr. Smith's question you didn't see much possibility of negotiated settlement—if Milosevic remains, do you believe there is any possibility of stability in that region, absent the total ethnic cleansing of Albanians from Kosovo?

Amb. WALKER. Not much.

Mr. HOYER. Mr. Chairman, I have a number of other questions for Ambassador Walker, but because my time is brief and I'd like to hear the other witnesses, I'm going to hold my other questions.

Mr. Smith asked a number of them, Mr. Ambassador. It's going to be important—I know you are back to your personal reasons, but, obviously, somebody who has been on site can testify to the fact that atrocities were already underway prior to any armed action being undertaken by NATO. I think that's a critically important fact for the American public to know, that while we've been at this a short time, and the press two, three days into the bombing we're saying it doesn't appear to be working; this may be a longer effort than we would like, but I would reiterate that I hope that your message and, frankly, the Administration's message, was strong in terms of staying the course. I'd like them stronger in using all means at NATO's disposal to accomplish those objectives. I think that's critical for Milosevic to know that there will be no safe haven. There will be no holding back of resources available to NATO to accomplish the objective, and I would hope that message, while you are here and, of course, overseas, is one within the context of your responsibilities and appropriate to give as one that's given.

Mr. Chairman, let me withhold my other questions so that we can hear the other witnesses. I'm going to stay until at least quarter of.

Mr. SMITH. Thank you, Mr. Hoyer.

I do want to ask one additional brief question, because I think it's very important to get this on the record and to elicit your response.

We have been a major provider of information that has led to both indictments and convictions in the War Crimes Tribunals. Last week, I wrote a letter to the President asking that the Administration collect information—do all that is humanly possible, direct every agency of our government—to focus on Milosevic himself.

Mr. Hoyer and I and a number of others passed a resolution last year. Our resolution called on—and Alfonse D'Amato on the Senate side made the same request which passed almost unanimously, if not unanimously—the Administration to stop dealing with everyone else but Milosevic.

Again, just last week in the New York Times there was a statement from a Clinton Administration official saying that we, the United States Government, have been the largest source of information for the tribunal; but we have never compiled a dossier with the aim of indicting Milosevic. It seems to me that when this man is being targeted—I don't disagree with the targeting—as a Hitler, as a Lenin, as someone who has done irreparable damage to human beings in crimes against humanity, to make him immune is, to me . . . . And this isn't the first time I've raised the issue; I've raised it at dozens of hearings. I've called hearings, briefings and the like, but I always get back that same blank stare, that we're not collecting information on Mr. Milosevic. Why? What would be your view on that? It seems we go after every other underling, but if we don't go after the chief promoter of this abuse, we are missing the boat.

Amb. WALKER. In a word, I totally agree with you. Let me say that starting with the aftermath of the Racak massacre my mission did everything it possibly could to cooperate with ICTY. I spoke to Judge Arbour and invited her to come down. We tried to get her through the border; they wouldn't let her in because she didn't have a visa. I subsequently went and visited her in The Hague; about a month ago I met her in The Hague, and we talked about this very issue, without prejudging what they were doing in The Hague. I am a very big fan of that process.

As we speak, I have got a good number of my people in Macedonia talking to the refugees, talking to the people who are coming out with these horror stories, to collect testimony, to get as much as we possibly can; and there is no question in my mind as to where the chain of the command leads.

I happen to believe that we should go after all those in that chain of command, but certainly the person at the top. I think it is terribly important, as you said, Mr. Hoyer, to demonstrate to the world that what he has done and what the people working for him have done over the past months—but most recently in the last few weeks—is just totally unacceptable to the civilized world. And we have to show that by indictments, and trials, et cetera, emanating from The Hague.

So, I'm glad you asked that question. Thank you very much.

Mr. SMITH. Thank you, Mr. Ambassador.

I would like to thank you again. I have a number of questions for the record that I'll submit to you, but thank you, and we're—

Amb. WALKER. Okay. Once I get my income tax done I'll be able to—

Mr. SMITH. We are very grateful for your great work.

Amb. WALKER. Thank you, sir.

Mr. HOYER. We'd want you to do that first.

Amb. WALKER. Being from Maryland, I understand why, sir.

Mr. SMITH. I'd like to question our second panel. I've already introduced them, but again I want to welcome Ms. Nancy Lindborg, Vice President of Mercy Corps International; Dr. Jennifer Leaning, Senior Research Fellow at the Harvard Center for Population Development Studies, and a member of the Board of Physicians for Human Rights; and Mr. Mark Ellis, Executive Director of the Central and Eastern European Law Initiative, as well as President of the Board of the Coalition for International Justice.

Ms. Lindborg.

TESTIMONY OF NANCY LINDBORG, VICE PRESIDENT, MERCY CORPS INTERNATIONAL

Ms. LINDBORG. Thank you, Chairman Smith, for convening this hearing today. Mr. Hoyer. I appreciate very much the opportunity to address the Helsinki Commission as I did a year ago, as we all grapple with the overwhelming crisis that's now engulfing the Balkans.

I would like to firmly underscore both of your opening remarks, in that this current nightmare certainly didn't begin with the NATO air strikes; and I think we've all missed opportunities—we being the collective international community—since 1989 to address what was by any perspective a long simmering conflict. And I don't think any of us needed sophisticated early warning systems to see what was coming down the pike.

Mercy Corps International has worked in Kosovo since 1993. In what began as a small assistance program to about 15,000 of the most vulnerable, ballooned into a beneficiary list of over 200,000 individuals by late 1997, partly due to a 70 percent unemployment rate among Kosovar Albanians, as they were excluded from all state jobs and institutions and systematically had their civil and human rights stripped away from them.

Then, as we all know, February 1998 was the beginning of violent conflict that erupted after nine years of a very peaceful and determined resistance by the Kosovar Albanians; and for more than a year the Kosovars have withstood the burning of their homes and fields, forcible evictions of entire villages, and the killing and massacres of innocent civilians.

We also had teams in the open fields of Racak just after the massacres there, saw 40,000 civilians camped in open fields and huddled in the mosque there. I will say that as Serbian truckers brought supplies for us—under contract they were bringing us flour and emergency blankets—some of them registered horror at what they were seeing. This is further testimony to the fact that many Serb civilians have no idea what is going on in the nearby province in Kosovo.

As all of us now watch the news footage of refugees—

Mr. HOYER. Can I interrupt, Ms. Lindborg. I apologize for interrupting, but you've made a very important point that both the Chairman and I made at the beginning; but it's important that the—and I think the American public understands it—the Serbian people are not the problem here. That is not to say that they haven't been hyped and Kosovo is very important to them, and their nationalistic spirit, et cetera, et cetera, has been whipped up by Milosevic; what is the problem here is an administration, Milosevic, and those who are allied with him in the government, who have as a policy the perpetra-

tion of criminal behavior to sustain themselves in power. And that's the point you make, that the Serbian people—when they know about these atrocities . . . they don't know about them; they are getting bad information; I don't mean to a person, but clearly like every human being who is revulsed by atrocities—react. And I think your statement of the Serbian truck drivers having—being revulsed by this activity—I think when the Serbian people know what Milosevic has done, they are going to say that the West was right.

But I appreciate your making that point.

Thank you, Mr. Chairman.

Ms. LINDBORG. There has been a systematic suppression of freedom in the press in Serbia that I think has been a very important factor in all of this.

And as we watch the news footage of refugees pouring across all the nearby borders, I think it's very important for us all to remember this isn't the first time many of them have left home with nothing.

Last summer, as we discussed, there were over half a million internally displaced people within Kosovo; and even in the weeks before the air strikes there were estimates anywhere from 250,000 to 400,000 still unable to return home.

What is notable, however, is that prior to the air strikes the very small numbers who took the steps of crossing international borders. People went to great lengths to stay within the region, close to their homes, staying with host families, camping in the hills and ravines, and waiting for the first chance to return home and to begin rebuilding.

Obviously, that's no longer possible. I think we are all witnessing the capstone of Milosevic's ongoing campaign against the Kosovars as we witness the brutal and forced eviction of the Kosovar Albanians, not only from their homes but from the entire region.

Mercy Corps evacuated its staff a few days prior to the air strikes. We did offer evacuation to all 45 of our local staff. Thirty-two chose to remain in the region with their families. We did remain in phone contact, as much as we safely could; however, we lost contact with our offices in Mitrovica and Peja as early as the first Saturday of the air strikes. In fact, the last phone call that we had from our office in Peja was when they informed us that there were more than 100 people in this particular person's office—in this particular person's family compound—that the Serbs had cordoned off the center of Peja, which was where the highest concentration of Albanians live, that Serbs were lobbing shells into the city center and brutally and physically beating people back as they tried to escape. We haven't heard anything since that phone call.

We still have 14 of our staff unaccounted for, although many of them have surfaced in the current exodus and have rejoined our staff and helped us to continue work in serving the refugees.

In Pristina, in the first days of the air strikes, residents there reported posters throughout the city warning them to leave before they were killed. We've heard stories from hundreds of refugees being forced from their homes at gunpoint and under shelling, stripped of all their documents and possessions.

The warehouses in which we and many other organizations stored relief supplies have been burned. Our offices have been leveled in Pristina and other cities, and we're now seeing the refugees flooding

across the borders on tractors, on foot, in buses and trains, in a tidal wave that threatens to destabilize the front-line countries of Macedonia, Albania and the province of Montenegro.

And now, the refugees face a new horror. In Macedonia, almost 50,000 refugees remain trapped in the no-man's land between the Kosovo and Macedonia borders. Many of them have been without food, water or medical supplies for five days; and they are encamped in the most miserable of muddy conditions. There are no sanitary facilities. There are no latrines. There are fears of disease outbreaks among this population.

We also have reports of a line of vehicles some 25 kilometers long, snaking back into Kosovo territory, leaving these people vulnerable to further Serb reprisals.

Only a handful of relief agencies have been able to negotiate entrance into this no-man's land. Those of us who are able to operate there have been working around the clock for the last three days, providing medical attention, food, drinking water, plastic sheeting and blankets, but are able to serve only a small percentage of the population.

UNHCR has set up a main transit center to house 10,000 of the refugees waiting registration. Sanitary facilities are being prepared. We have additional relief supplies procured, staged and waiting to be distributed; and NATO is in the process of setting up five collective centers throughout Macedonia. More can be constructed as the need arises.

But this absolute tidal wave of refugees has overwhelmed Macedonia, taxing its ability, and, more importantly, its willingness to respond. I think it's important to consider the impact of 130,000 refugees—which is the current count—in a country of 2.1 million people; and this is in Macedonia, which already had a very delicate balance between the Albanian minority and the Macedonian majority. They've just had an influx equaling more than five percent of its entire population; and I think, to put it in context, that's equal to about 15.5 million swamping the U.S. in four days, which is roughly approximate to the entire population of Norway, Sweden, and half of Finland coming to the United States.

And, this is occurring in a country that already had 40 percent unemployment. As a result, tensions are rising on all sides. Macedonian officials are dragging their feet; they are refusing to register the refugees. They are threatening not to let any more into their country. Relief workers are frustrated with our inability to help the people who are trapped literally and figuratively in no-man's land.

Similarly, Montenegro is facing an even more ominous set of fissures, as it copes with 50,000 new refugees; and it's caught in a very precarious balance between its friendliness with the West and the pressure from Belgrade. We are, as are many of our sister agencies, continuing to distribute food to refugees—primarily in Ulcinj and Rozaje today, but tomorrow we may be facilitating escape routes if the threats continue against the current government there.

Albania has been similarly swamped. In contrast, it has mobilized its government resources to assist with the more than 100,000 refugees; and NATO has already moved in with logistical support for U.N. and international relief groups to bring food, water and shelter to the refugees camped along the borders. Many refugees are still caught

along the border waiting for any kind of food, water or medical supplies. Our teams have watched as whole villages with whom we've worked in the past have come across at various crossing points.

However, Albania was barely feeding its own people before this crisis, and despite its willingness to cooperate it will also need massive assistance to ensure its ability to forestall collapse.

The international community has three overwhelming responsibilities right now. The first is to provide the best care possible for these refugees. The second is to ensure that these front-line countries don't collapse under the weight of these refugees; and the third is to press forward with all means possible to ensure that these refugees are able to return home as quickly as possible in a secure environment.

The international relief community—including private organizations, the U.N., and now the military—has already mobilized resources to assist the refugees with emergency immediate needs. Many organizations like Mercy Corps evacuated out of Kosovo and are now operational in the front-line regions. We, with private resources and early quick funding from U.S. AID and other donors, have been able to procure emergency food and supplies for tens of thousands of refugees and immediately begin distributing aid.

It is our challenge to work in close cooperation with our colleague agencies, with the U.N. system, and with the military to ensure that all of our efforts are collectively focused on bringing aid as quickly as possible to the refugees. More is needed. I think all of us have seen an initial outpouring of support from the American public as they help us support those efforts; and we have seen assistance from the U.S. government and hope more is forthcoming.

We must also, as an international community, provide Macedonia, Montenegro and Albania with the political and financial commitments that they need to maintain stability and continue accepting refugees. A plan is now underway to transport refugees to third countries of asylum. This, unfortunately, further tears apart family members and lessens their desire to return home and remain as close as possible to their home.

Unfortunately, this step may be needed to provide immediate assurances to the front-line countries that they are not alone in grappling with this crisis; but we urge that we first attempt to provide these countries with the economic packages they need to relieve their tensions, in hopes that they will continue to provide assistance to and accept the Kosovar refugees. For example, on a small scale Mercy Corps is looking at programs that develop economic assistance to the local populations of Albania and Macedonia, while at the same time assisting the refugees. These are the kinds of programs all of us need to creatively look at to provide the assurances Macedonia, Montenegro and Albania need.

Most importantly, we must collectively reaffirm that our first priority is to return the Kosovars to their homes as soon as possible. We must press forward with all means possible to ensure they are able to return home in a secure environment.

One lesson that I think we can apply from Bosnia is that we signed a peace agreement there that did not provide adequate security for returning refugees. As a result, many of the Bosnian refugees are

still not able to return safely to their villages. Any negotiated settlement and any solution in Kosovo must first and foremost provide the security that the Kosovars need to return home.

We've seen them return in the past to the skeletal frames of their homes and live under plastic sheeting in order to plant their spring crop. The Kosovars are committed to returning; we must help them to do so.

Finally, just as this crisis did not begin with the air strikes, neither will it end with the air strikes. We must acknowledge now a long-term commitment to helping the Kosovar Albanians return and rebuild their devastated homes and communities.

Mercy Corps and several of our sister agencies have worked with these people for six years; we are committed to working with them now in their refugee camps and also to returning with them as soon as possible in Kosovo to help them put their lives and homes back together from the current wreckage. This vision requires the strong financial and political commitment from the entire international community.

Thank you.

Mr. SMITH. Ms. Lindborg, thank you very much for your fine statement and more so for the great work that you do on behalf of those who are suffering, you and your volunteers.

The fact that you have not heard from so many of those who were left behind by their own choosing raises the question of everyday risks that the NGOs take on themselves in order to help their brethren.

I think we should always remember that. If there are true heroes in the world today, they are people who are providing humanitarian assistance in difficult circumstances—in this case, a war situation. So you certainly have garnered the respect of everybody on Capitol Hill, and we do thank you for it, you and your colleagues.

Dr. Leaning?

TESTIMONY OF DR. JENNIFER LEANING,
PHYSICIANS FOR HUMAN RIGHTS

Dr. LEANING. Thank you.

Good morning, Mr. Chairman, Mr. Hoyer, and thank you for the opportunity to participate in this panel and to address your committee on the topic of the catastrophe in the Kosovo region.

My name is Jennifer Leaning. I'm a physician on the Board of Directors of Physicians for Human Rights, and I also work as a Senior Research Fellow at the Harvard Center for Population Development Studies.

I'd first like to give a vignette that we have received from our PHR colleague who is now working as a physician and human rights investigator in the field in the Macedonian border camps in the no-man zone earlier referred to, then recount the spiral into war that I saw from several vantage points in my investigative missions in Kosovo during this last year and at a point in the northern Albania border area, and then proceed to conclude with a set of most recent recommendations that we are submitting to the international community on behalf of the people in the region.

The major point that we are now all aware of is that two humanitarian crises are now unfolding in Kosovo, in the region, both raising great core challenges and timely response. The first is the ongoing

destruction of the Kosovo community in Kosovo, which is a rapid campaign of ethnic cleansing and social obliteration being waged by Serbian forces under the direction of Milosevic; and the second is the public health catastrophe that is exploding on the border areas of Albania, Macedonia and, to a lesser extent, Montenegro.

The vignette that we have received by e-mail and cell phone—which still intermittently works—from our colleague within Macedonia, includes the following points. This is from this morning: "Walking through the camp last night,"—this is on the border of Macedonia—"I saw people who have waited for days to cross the border and they are starting to give up. One family I talked to said they stood in line for 18 hours; another woman was desperate to cross but couldn't wait in the crowd with her elderly immobile mother. I cannot say how strongly enough how great the fear is that if they leave the area they will never see their families again. People are desperate to find their loved ones that they've been separated from for days."

Another vignette: " . . . a tent with 25 immobile and retarded persons who were barely attended to because few of their family members had arrived to care for them. They had no bed pans, no caretakers; food and water was scarce. The tank stank to high heaven." The third vignette: "I talked to a man who said my wife collapsed at 8:30 this morning and wants to get first aid. We took her there, but the Macedonian police would not let me in. I want to know if she's alive. No one is taking names. The doctor says our colleague—if she goes to find this patient, will she be able to climb down the vast sea of Peces on the way to the medical tent and then find the man again in the sea of people and tell him what had happened. And, by this same token, if she thinks of her own dilemma of finding the man, how will his wife, who is ill, ever find him if she returns from the medical tent?'

There are many issues of medical care that we detail in the written statement submitted to the record. We'd just like to stress the fact, as recorded by your colleague and by many other people who are now there, is that the medical staff at these relief tents are terribly overworked and under-staffed. Over the weekend, a vehicle belonging to a medical organization was turned back at the police checkpoint on the way to the border and was unable to relieve the staff who had been there overnight. Finally, when people did get in, they worked with only two nurses seeing hundreds of people who were collapsing from exhaustion, fever, hyperthermia, and dehydration.

The concern is, as the day progresses without aid reaching these pockets of people who are trapped in these no-man's areas, that there will be a mounting death toll and the outbreak of further death, not just from dehydration and diarrhea, but from a range of infectious diseases that always afflicts a community in this kind of duress.

Our colleague reports that she has heard reliably from several informants among the refugees who are now in Macedonia that the Pristina Hospital, which is the large state hospital, was emptied of its Albanian patients beginning this last weekend, about five days ago. A thirty-three year old nurse working in the infectious disease service of that hospital said that Albanian doctors and patients were told to leave the hospital last—she said the hospital was closed to all but most heavily wounded patients; and when she returned to work last Monday a week ago, the only people she saw at the facility were police, who told her to go home.

As we've heard and as we know, access to the refugees in the Macedonian border area is severely restricted, and under normal circumstances there might be a way in which people can wait for the lifting of the border closures. However, because people have waited for days on the Kosovo side of the border and have been without food, shelter or water, the restrictions that are now imposed on the Macedonian border are especially severe and potentially life-threatening to large numbers.

Now, I would like to now turn to the events that led up to this refugee crisis or this crisis of evicted populations and note that during the last year Physicians for Human Rights has observed at close range the unfolding calamity in Kosovo and has issued six separate assessments with calls for vigorous and far-reaching Western action. We did so in March of '98 after the massacres in Northern Kosovo; in late June of '98 as we interviewed refugees in Northern Albania; in late December after a four-month investigation of the tax on physicians and medical care throughout Kosovo inflicted by the Serbian military and police; in late January after the massacres at Racak; and in late March of this year as the Serbian campaign of ethnic cleansing reached unprecedented proportions; and again just yesterday, when we said that the afflictions of hundreds of thousands of Kosovo refugees prompted the need for vast martialing of international civilian and military aid to provide infrastructure supporting relief.

Based upon our experience over the past year, we have the following observations and recommendations we'd like to submit to the panel and to the committee. First of all, this crisis took a year to unfold, but its features were evident very early on. There were many points along the road when the West could have intervened politically, diplomatically, and militarily with far less cost and risk than now confront us.

Second, the October Holbrooke-Milosevic agreement yielded one unexpected outcome: the successful use of unarmed monitors in large numbers in the field to inject a measure of restraint, visibility, and accountability, to hold conflict to a low simmer for a short period of time, but one expected outcome: the blatant and almost immediate violation by Milosevic of the military terms of the Accord, a violation which by early January and into February had managed to shift the military balance of power in the region to the point where armed intervention to oppose him became almost inevitable.

Third, in the late fall and winter we found a systematic campaign on the part of the Serbian authorities and the military to break the spirit of Kosovo's civil society, to terrorize and kill in moderate numbers in order to force much larger numbers into flight, and thus to accomplish the de-population of large areas of Kosovo. This was in the fall and early winter of 1998.

In March of 1999, we saw how rapidly the Serbian forces had managed to build up their strength, bringing in approximately 40,000 to 45,000 regular soldiers, as well as thousands of special police force units, at least 400 tanks, maybe APCs, extensive artillery batteries, and much augmented military air capacity.

The presence of this military force—and I and my colleague there witnessed this—was brandished with menacing insouciance: tanks moving 60 kilometers per hour on the main roads; APCs rumbling in towns and villages, parked at numerous check points and all main roads; large groupings of heavily-armed soldiers and police at most

corners. Little attempt was made to camouflage the artillery batteries; a sense of jeopardy prevailed in all activities; local people did not go out after 6:00 p.m.; it was dangerous for young men to be out in public at all during this period; and the humanitarian community imposed informal curfews of 9:00 to 10:00 p.m. for all their staff.

Our hopes rested on a positive report from Paris after March 15th, but almost every one in Kosovo at that point feared that Milosevic would not relent; and by the morning of March 16th, it was evident that we were all witnessing a rapid slide into outright war. The tanks prowled the roads in great numbers, swinging off precipitously into the fields and hills, leaving tracks in the mud and snow, heading off to do damage to more remote hamlets. Mortar shelling could be heard during the day, even in Pristina. An increasing number of killings of Kosovar civilians were reported from all sites. North, Central and Southwest Kosovo became entirely unstable.

As of March 19th, estimates of newly-displaced populations on the run within Kosovo reached 66,000 for that short week alone.

Mr. HOYER. That was prior to the bombing.

Dr. LEANING. Prior to the bombing—this is the week of March 15th to 19th—66,000 new internally displaced fleeing the violence.

My colleague and I were scheduled to leave on a flight out of Skopje on Saturday afternoon, March 20th. We could sense that because of the impending escalation of violence that the requirement to extract OSCE was imminent. We decided to leave a day early on the 19th, to avoid what turned out to be the traffic jam that Ambassador Walker described. We left; and on that southern road from Pristina through Kosovo to the Macedonian border, we passed a menacing and perilous encampment of heavily-armed Serbian military vehicles and tanks. There were only a few OSCE vehicles on the road—no other private cars—and we could palpate a high alert status in the southern town of Kuchanic, the border area with Macedonia that had seen much killing and destruction throughout early and mid-March.

And when OSCE began to leave the next morning, packing the road with the vehicles, they left with a sense of dread and sorrow that was shared by all of us who had traveled throughout Kosovo during these past weeks. A bloody conflict was inevitable, rendered more brutal now that the control rods, the OSCE verifiers, were being pulled out. And, as anticipated, all restraint imposed by official witnesses was immediately thrown away, and the Serbian forces began to move rapidly and with evident abandon against all civilian targets throughout Kosovo: people, villages, homes, livestock, farms, cultural and religious sites. They had been doing all of this before, and it was clear that their intent had been to do it all whether there were witnesses or not; but without observation, the speed accelerated greatly and the efficiency of gross ethnic cleansing was catapulted to new heights.

We repeat, this occurred before the NATO bombing. And, in fact, the delay in NATO bombing from March 20th until March 24th gave the Serbian military a grave head start on the campaign of atrocity they had already embarked upon. Already by late October it was known by official estimates, UNHCR, that a third of all villages in Kosovo had been destroyed, a third seriously damaged, and a third left intact.

By mid-March, it was impossible to travel the main roads without seeing a seriously damaged village or hamlet from the main roads. Time is now absolutely critical. Kosovo is a tiny place; you can drive across it in an hour and a half, and you go ten kilometers west of Pristina and you can see the mountains of Albania and the mountains of Montenegro. Ethnic cleansing is an intimate activity. You shell with grenades, you go house to house, you drive people out, you kill a few, and then you burn and rampage.

Protection of people is a robust and rich word as conceived in international law and human rights; and it involves shoring up the physical security of people but also attending to their past and future. What is being destroyed now in Kosovo is all record of wealth, all sense of past and future, all capacity to return without disagreement.

We are extraordinarily concerned about the campaign of social obliteration going on now within Kosovo, which we think raises the concern of early genocide; and we were equally concerned about the humanitarian catastrophe that is now unfolding on the border regions.

We call upon all supports to the Macedonian government to ensure them of international sustenance and infrastructure flow in order to allow them to give access and rapid processing to the refugees at their borders. We endorse the use of NATO and other military to support the international community in its effort to provide emergency supplies and relief to all refugees. We ask that NATO, in addition, secure and defend a safe region within Kosovo, where displaced people may be protected and aided in the short term; and as quickly as possible, NATO and the U.S. should deploy a ground protection force to secure the withdrawal of Serb forces from Kosovo so that all refugees and internally displaced people can return to their communities.

And finally, in keeping with U.S. treaty obligations, to punish those responsible for genocide, we call upon the Clinton Administration to immediately provide the ISTY with all available intelligence information that reveals evidence of atrocities in Kosovo.

We also would urge that the OSCE provide in its most public forum possible whatever information it is gathering at the border that relates to evidence of atrocities and possible genocide now underway in Kosovo.

Thank you very much.

Mr. HOYER. Mr. Chairman, unfortunately I have to leave, but let me apologize. Mr. Ellis, I will read your statement—assuming we have a copy of it. If not, I will read the record of your statement.

I want to echo the Chairman's remark, Ms. Lindborg, to you, and, Dr. Leaning, to you, and you, Mr. Ellis, in terms of NGO organizations that voluntarily come to the fore to protect people when others will not or cannot. I also want to thank you for your compelling statements, which certainly underpin the moral necessity—not justification—moral necessity for those that can act to act.

I tell the story that all of you know about the woman who was raped and killed in Brooklyn in a complex—an apartment complex. There were at least 14 people who came forward and said, "I heard her cries for help, but I did not respond." That woman, of course, died, as her attackers were unfettered.

The international community, in my opinion, has been somewhat in that same position. We talk about exit strategy. I'd like to have an exit strategy, but what I would like to have more is a commitment

that this outrage will end; and your testimony will be an important factor in letting the American public know, the European public know, what outrages their governments are trying to stop and to reverse.

So, I thank you very much for your compelling and tragic testimony—in many ways—but important and necessary testimony.

Thank you.

Mr. SMITH. Thank you, Mr. Hoyer.

Mr. Ellis.

TESTIMONY OF MARK S. ELLIS, CENTRAL AND EAST EUROPEAN LAW INITIATIVE (CEELI) AND THE COALITION FOR INTERNATIONAL JUSTICE (CIJ)

Mr. ELLIS. Thank you, Mr. Chairman, and I will follow up with what Ms. Lindborg and Dr. Leaning have said and try to incorporate their points into the issue of accountability. I would also like to address the issue of the International War Crimes Tribunal and its jurisdiction over the atrocities occurring now in Kosovo, and particularly whether or not there is a prima facie case to bring indictments against the command structure in Serbia, including Mr. Milosevic, for crimes against humanity and genocide.

The primary focus of the Tribunal should continue to be to aggressively investigate the violations of international humanitarian law in Kosovo. The Office of the Prosecutor has that authority. It can initiate investigations on its own or rely on the basis of information obtained from any source, including directly taking on ground statements from witnesses and from victims. The OTP, the Office of the Prosecutor, must show only a prima facie case to bring an indictment, and that should be its focus. Let me speak a few minutes on crimes against humanity, and then I'll end my remarks on talking about the crime of genocide.

Under Article V of the Tribunal, we know that the statute recognizes crimes against humanity. The ICTY has the authority to prosecute persons responsible for these crimes, including murder, extermination, enslavement, rape, torture, and also deportation. And as Dr. Leaning had talked about, de-population, in my opinion, is within the context of deportation directly under Article V of the statute.

The acts, as we know, must be within a policy of discrimination; they must be carried out in a systematic and widespread manner and thus involve a large number of victims and perpetrators. And I think Ms. Lindborg and Dr. Leaning have certainly established that case.

The key aspect of crimes against humanity is a systematic process of victimization against the protected group. Let me give you a for instance. We frequently look at murder or mass killings, but it does not have to be in the context of mass killings to bring you into the victimization of a protected group. We know—and it has been stated here today—that we have evidence of Kosovar Albanians who have been interviewed and stated that while crossing the borders into Albania their identity papers were taken from them by the Serbs.

It is not necessary that all of the refugees had their papers stripped in order for that to fall within the crimes against humanity; it's not even necessary that we consider this act alone as a crime against humanity, although in my opinion it is; but if it's within the overall context of this large-scale, calculated plan of victimization, then that makes the act systematical, and that would bring it within the con-

text of crimes against humanity. So this one particular act that we are now witnessing, in my opinion, is sufficient to fall within crimes against humanity.

Obviously, the most significant manifestation of this policy, the policy of large-scale crimes against a civilian population, is the forced displacement or de-population—as Dr. Leaning has stated—in Kosovo. It is clear from the statements we are hearing and from the statements and witnesses that the two groups with us today have brought forth, that there is an unambiguous campaign to ethnically cleanse Kosovo. So, this whole issue of deportation, de-population, in my opinion, is consistent with Article V of the Tribunal's statute; and thus I believe that a prima facie can easily be brought forth to indict the command structure within Serbia on charges of crimes against humanity, based solely on this systematic and widespread act of deportation.

Now, there are numerous other crimes that we are witnessing, but I wanted to make clear to people that the crimes that are set forth in this article go beyond that of mass killing and involve other types of acts that would be consistent with crimes against humanity.

Let me now turn to genocide, which is a much more difficult crime because of its legal complexity; but let me see if I can clarify it and also make some judgment on whether or not, in fact, there is sufficient evidence to bring an indictment on this particular crime.

Article IV of the Tribunal essentially incorporates the 1948 Genocide Convention, but what's important with the crime of genocide is this element of intent. There has to be an intent to destroy a designated group in whole or in part. This is what turns crimes of mass murders or crimes against humanity into crimes of genocide, so it's always important that we focus on this issue of intent. It's this element of intent that distinguishes genocide from all the other crimes that fall within the jurisdiction of the Tribunal.

And, we have to admit, the element of intent can be difficult to prove, absent a documentary record for this intent, as there was at the end of World War II. It makes it more difficult but not impossible because the Tribunal, and wisdom in creating the rules, created Rule 93 which provides for evidence of a consistent pattern of conduct to be admissible in the interest of justice. And so, the pattern of conduct, which would also include the conduct that occurred in Bosnia, would be part of building this case of intent, and this, to me, is extremely important.

We know that the crime of genocide includes—as we frequently discuss—the vast numbers of people killed, actually murdered; but we also need to remember that it includes serious bodily and mental harm to members of a particular group. It includes deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

So each of these acts can constitute a crime of genocide in and of itself, as well as a combination of the acts; and again I submit that even the evidence we've heard just in this last 20 minutes would give credence to some of these acts, short of mass murder, which I don't suggest is not occurring as well.

Now, the punishable acts is also important in genocide. It's not just the act of genocide, but the punishable acts include the conspiracy to commit genocide, the public incitement to commit genocide, the attempt to commit genocide, and the complicity in genocide itself.

So what we are talking about is that the political masterminds, the propaganda people, are no less responsible than the individuals who actually perform this carnage; and that brings us to this concept of command structure—Public officials, civil and military personnel, all public office holders, including legislative, administrative, judicial office officials, including Mr. Milosevic can be held responsible. There is no shield of immunity.

And this is important because genocide, the very basis of genocide, tends to be based on a policy that is developed by the authorities of the state, because only the state can martial the powers and resources to inflict this type of carnage; and it is unlikely that the policy of genocide would have its genesis in any other entity other than the state, other than the top commanders of the military and of the political structure.

It is also important to remember that genocide is aimed at destroying the central foundations of a protected group. It includes the disintegration of the political and social institutions, the culture, the language. Evidence suggesting that Serbian forces are destroying the archives of the Kosovars, their properties, their deeds, their marriage licenses, their birth certificates, their financial and all other records, that they are being systematically destroyed to deprive these individuals of their culture, and of the sense of community for which it depends. I believe this act, in and of itself, is an act of genocide.

The most significant manifestation of genocide is the same as with the crimes against humanity—ethnic cleansing.

Ethnic cleansing is a policy of using any type of force or intimidation to remove these targeted persons from a given area, and then to prevent them, inhibit them, from returning, as we are witnessing now in Kosovo, is what we define as ethnic cleansing. It is not necessarily, as is often stated, that we have to have mass killings. That is not the definition. It is certainly a part of ethnic cleansing, but you do not have to reach that level in order to incorporate ethnic cleansing into the crime of genocide or the crimes against humanity.

It is also important to note that ethnic cleansing can involve—as I said earlier—the intent to destroy a group in whole or in part; so evidence that the Serbian forces are killing the Kosovar intelligentsia— the Albanian population that consists of public officials or lawyers or doctors, the well-educated—is consistent with the definition of genocide. It is not necessary that we have to destroy all. It is targeting in on a particular sub-group with the intent to destroy that particular group, and we certainly have seen documentation supporting these acts. Also, the act of targeting a certain segment of the group, Kosovar men—which we've seen sufficient evidence to suggest that this is occurring—is incorporated into the article and could, in and of itself, be an act of genocide.

And finally, let me say on genocide that a targeted group can also be defined within a geographical area. You can focus just on Pristina, and if there's the intent to eliminate that part of the group in that particular village, or in that particular city, then, again, you have brought the act within the definition of genocide.

Let me conclude by discussing the issue of jurisdiction. We know that within the Tribunal's own statute that personal jurisdiction includes those individuals of command responsibility; and within command responsibility you essentially have two meanings. You have

direct command responsibility; so if there's evidence to suggest that Mr. Milosevic planned, or instigated, ordered, committed, or otherwise aided or abetted in the planning of the criminal acts, then the jurisdiction holds. There's also within the Tribunal's statute, imputed command responsibility; and that is a situation where the superior, Mr. Milosevic, or a general, knew or should have known that a subordinate was about to commit a crime under the jurisdiction of the Tribunal, but that superior failed to take the necessary steps to prevent the subordinate from committing that crime or stopping the subordinate from doing so or punishing the subordinate who already committed the crime.

And so I find no barriers to move these types of indictments quite far up the command structure. I think it's time that Mr. Milosevic is indicted for crimes against humanity and for the crime of genocide for acts in Bosnia and Kosovo. The prima facie case exists, in my opinion; and I'm hopeful that the Office of the Prosecutor for the War Crimes Tribunal will concur with this opinion.

Mr. SMITH. Thank you very much, Mr. Ellis, for your excellent statement and for your analysis. I agree with the latter statement—and the rest of it as well—but that latter statement can't be emphasized enough. When you let the chief culprit of this misery and destruction off the hook and make him your partner for peace, there's something wrong with the picture.

My first question regards the cost and whether or not we have allocated sufficient monies in the international community. As you know, the UNHCR, or the U.N., has said it would take about $81 million for three months to care for the refugees. I remember when we were faced with the unprecedented flight of Cardias out of Iraq. The international community, including the NGOs who do so much with so little very often, were unprepared for the massiveness of what became known as Operation Provide Comfort. It actually took a lot of military capability—airlift and the like—to get the money there.

I went over a couple of days after that flight began and was amazed at how ill-prepared we all were for that exodus. It seems that when you see a doubling of the number of internally displaced—especially refugees—since the bombing began—I'm not so sure the numbers are scrubbed sufficiently to meet and to accommodate that need.

I called for this; and the President certainly responded very appropriately, I think, to all the calls—both within his Administration and without—with $57 million for at least a down payment. Has anyone done a sufficient estimate of what it would cost to care for the people, not just for three months, but, say, for the next six months to a year? I mean, it would be a crime if we didn't respond adequately to this crisis.

Ms. LINDBORG. I don't think that calculus has completely been done yet. I think that the $57 million, coupled with what's coming from other countries and what's coming from private citizens, will certainly get us through the first trenche. There will undoubtedly be more needed; and as I noted in my testimony, I think critical to the entire equation is the adequate support for the countries that are bearing the greatest burden of caring for the refugees. That can't be lost sight of either.

I think it's very difficult to be prepared for tidal waves that grow so much larger than anticipated, and I think that the numbers that the U.N. is currently working with are still, perhaps, not high enough for what we may finally end up with as refugees.

Mr. SMITH. Ms. Lindborg, you mentioned three of your points. One was related to the front-line states to make sure they don't collapse. Are you very concerned that they are, perhaps, approaching a situation where they may collapse?

Ms. LINDBORG. I'm concerned for two key reasons in Macedonia. One, I recently returned from Skopje and was there for the demonstrations against the United States Embassy, which were clearly orchestrated by Belgrade; I saw the busloads of protestors unloading to go participate. But I think that there are on-going tensions between the Macedonian and the Albanian populations there. There was high unemployment, and what is resulting is this reluctance to more quickly process the refugees, keeping them, instead, in no-man's land and not allowing proper access.

I think by providing the Macedonian government with the economic and political assurances that it needs, we hopefully can facilitate their acceptance of these refugees and at the same time forestall the collapse that I think Milosevic would certainly like to see in that government, in Albania, and then the additionally complicated situation in the Republic of Montenegro, or the autonomous republic.

Mr. SMITH. In terms of the "humanitarian corridor" that the Pope is attempting to get established—I know your organization certainly would welcome that in an instant because there are so many internally displaced people who cannot be reached; we don't even have information about them, as far as I can tell—what further should be done to promote that idea? It seems as if it's almost a no-brainer. If something like this could be negotiated—and with great difficulty with a guy like Megetsu in Ethiopia, who for a long time did not agree to it but then eventually did—what would be your recommendations to Congress, to the Administration, to put that higher up on the priority list?

For your information, I have read Dr. Leaning's previous statements about those in the hospitals. We don't see medical transport taking people across the border. We presume that the situation went from bad to worse for those who were in the hospital or in some other health care facility and for those who should have been because of some ailment. We never know the day or the time we are going to get sick; certainly the elderly or others could find themselves in need of health care but they do not get it. So when there is an acute crisis that grows worse by the day, a "humanitarian corridor" certainly would help to relieve some of the pressure.

Ms. LINDBORG. I think we certainly have an obligation to do whatever we can to help people get out of Kosovo. I think we've seen that those who are able to get out come with horrible stories about what's going on. There is a shortage of food, an inability to get medical supplies. We would welcome whatever means are possible to enable people to leave.

One concern I think many of us have with the cease-fire is that it's very difficult to enforce—which, I believe, is part of the Pope's recommendation, and it, in fact, could give more time for Serbian militarian police to further harass and brutalize the remaining civilians within Kosovo. So it would have to be negotiated . . . .

Mr. SMITH. On that point, as Ambassador Walker said earlier, within minutes of their departure the atrocities began escalating. They could almost see the tanks in formation as their jeeps were making their way out of town.

There is something to be said about presence and the curtailing effect that presence may have on actions of atrocity. I wonder if it's a "humanitarian corridor." It's not just an exodus that would be contemplated, but it would also be a way to get people in.

Dr. LEANING. Could I comment at this point? I completely concur with what Ms. Lindborg has said about the need to protect people in Kosovo, which may actually involve creating a protected barrier for them; but—and this is something all of us who have been there and have seen the Armed Forces at work recognize—I think at this point of militarization and entrenched aggression that is at work within Kosovo it is not wise to create either a "humanitarian corridor" or any kind of other protected area without the initial prior introduction of an armed force to secure that area.

And if one is going to, the enormous political, diplomatic, and military effort to insert a force in what is still, essentially, a non-permissive environment, one might as well crack open an area in southern Kosovo that would be a big temporary protective enclave, where people could flee and find support; but it would have to be rimmed by, patrolled by, overhead surveillance by NATO forces. This is not a time when one can rely on any assurance from Milosevic, because you can't see if you are not there.

And so the short and long-term way we think of protecting civilians in Kosovo is not to un-link that protection from the front and center necessity to face the brutal armed forces at work there.

Mr. SMITH. I appreciate that.

I was just handed a note that CNN has just announced that Milosevic declared a unilateral cease-fire to mark Orthodox Easter. NATO rejected the declaration immediately, saying that it would not participate unless, one, Serbs stopped the crackdown against Kosovars, and two, ethnic Albanians are permitted to return.

I wonder if the panel could tell us information that's just off the CNN television news-breaking story—under what circumstances would you suggest that a cease-fire would be appropriate? Let me say before you answer that the problem I have been having—over the last few days especially, and particularly from hearing some of the calls made by clerics and others—is that we are losing. I'm not doing the dying. Some of your people, regrettably, are at great risk, but there are tens of thousands who are at risk. Sometimes our preconceived notions, including my own, about what would be the best case scenario must fall to what is the most likely to achieve the least amount of suffering while we try to regroup and find some way of resolving this problem.

I know that in the past when Milosevic has declared cease-fires—I met with him right after he declared a cease-fire during the siege of Vukovar; but before I was on the plane to leave Belgrade, he had already broken it. But, perhaps, things might have changed since then. We don't know.

The question is, under what circumstances do you think a cease-fire would be appropriate? All three of you may respond, if you like.

Mr. ELLIS. Well, my concern about accepting this type of cease-fire is that we will find ourselves right back in a situation where Mr. Milosevic is calling the shots. Enough is enough. Mr. Milosevic needs to be indicted, and he needs to be in The Hague; and then he can say whatever he wants from up there.

I think we have witnessed enough. Negotiations must be based on what the international community is demanding and what it's demanding of Mr. Milosevic, and he should not be placed in a position now or at any time in the future, in my opinion, to act as the peacemaker in this situation.

Dr. LEANING. In our view, the cease-fire would need to be linked contemporaneously with a fully articulated agreement, under which a robust NATO protection force, able to defend itself and to defend civilians in a proactive and far-reaching way, is permitted to be introduced on the ground throughout Kosovo.

Ms. LINDBORG. Speaking from the humanitarian perspective, I would simply say that any cease-fire or any negotiation must first and foremost be accompanied by absolute guarantees of protection and security for those remaining inside Kosovo and those who would be in a position to return, by whatever means we are able to secure that guarantee.

Mr. SMITH. Thank you.

Dr. Leaning, has your organization Physicians for Human Rights found any reluctance on the part of the Serbian medical community, any backlash, as to how the authorities have treated the ethnic Albanian doctors? Have they spoken up? Has there been a sense of comradeship, a feeling that "We are medical doctors and nurses. We speak up for our own because a patient is a patient is a patient." Has there been any of that?

Dr. LEANING. Thank you for asking that question. We were in Kosovo for two and a half weeks in March in an attempt, still in the light of the Rambouillet, not the shadow, of looking to the future of possible peace and reintegration of these societies, Serbian and Albanian; and we were doing so on the basis of what we presumed to be a capacity for professionals on both sides to reach into their hearts and minds and training and come to terms with their joint shared values of medical ethics human rights, and their understanding of medical neutrality under international law.

We were able to reach that level of commitment, understanding, and real thoughtful exploration of what a multi-ethnic peaceful society might be with large numbers of ethnic Albanian physicians, who once they were led into the principles of the Universal Declaration of Human Rights immediately grasped that human rights matters not when you apply it to your own people but when you apply it to the other people. And particularly the minority people, which they anticipate would be the situation of the Serbian population post-conflict and in some form of negotiated settlement.

We made many approaches to the Serbian physicians, and we have indirect evidence that there is still alive, if not robustly well, a strong commitment to professional ethics; and we had some limited first person evidence that it is still there and able to be rekindled.

The fundamental problem with reaching the Serbian physicians is that they were directed from above, from some form of either high-powered civil/medical servant, public servant, running the Serbian health authorities, or directly from Belgrade; we couldn't trace it. But in any case, any time we attempted to make an outreach there would be an initial interest on the part of the local person and then there would be a phone call later saying that it was regrettably impossible for us to meet with them.

We did meet with three very senior Serbian physicians in the city of Pea, as the Albanians call it. These were the directors of the overall medical situation, and under him, reporting to him, the director of the big state hospital there, and the director of the big ambulatory clinic which does out-patient surgery as well, and all three of them, in a two-hour discussion of these issues, said that they wished to work with the ethnic Albanian physicians in reaching out to the people who were injured in the countryside. They would like to have joint convoys supported by OSCE to get past the check points. They were glad that despite the many criticisms of the care given the ethnic Albanian patients in the hospital that in general their Albanian physician colleagues said that the technical care—not the overall humanity and courtesy which was extricable but the technical care—that the Serbian doctors gave the Albanian patients was still good.

And we found that throughout Kosovo, that the Serbian physicians, in general, when they were faced with the need to do an appendectomy, faced with the need to deliver a difficult labor, they would do the work that was necessary.

So we think that both by indirect discussion with people who would talk off the record, by the fact that Albanian physicians themselves said that there were still connections of professional integrity they had with their Serbian colleagues, and by the fact that some senior physicians implored us, pleaded with us, to realize that they also believed in medical neutrality.

I would say that although the Serbian side of the health system in Kosovo was deeply degraded by the political regime, it could be reconstructed to work with the ethnic Albanian medical community.

Mr. SMITH. Just for the record, can you tell us how many doctors, nurses, and health care facilities are we talking about?

Dr. LEANING. We are talking—it's very hard to get these numbers because of the parallel system that Ms. Lindborg referred to; the records are hard, but we think there are about somewhere in the order of 3,300 ethnic Albanian physicians and somewhere on the order of 500 to 1,000 Serbian physicians; more of them are in specialty areas because they were allowed to get the training; the ethnic Albanians were not.

And then, there are major state hospitals at the three major cities and then smaller hospitals and clinics in many of the smaller ones.

Now, a number of—and then in addition, there are hundreds of private clinics, some of them very well staffed and equipped, that the ethnic Albanian physicians have built up over the last nine years, using their own funds and their own money; the majority of those, if

not all of them by now, have been completely destroyed in this year of war. So there's a great loss of medical capacity. There are still some buildings standing, and there are large numbers of educated professionals who are now refugees on the various borders who would be very willing and eager to go back.

Mr. SMITH. Thank you.

Mr. Ellis, let me ask you a question regarding the International Tribunal. One of the criticisms with regards to Bosnia was that nontrained investigators were eliciting evidence from those who were fleeing, and at some point their testimony changed or didn't hold up. The right questions weren't asked, so the International Tribunal has been reluctant to get or gather that kind of information.

Is the International Tribunal deploying its own people to investigate, to take depositions, to get information, that could lead to prosecutions?

Mr. ELLIS. Mr. Chairman, they do. The Tribunal would probably—if they were here—say they do not have sufficient resources to undertake a response to the massive problems we're now facing in Kosovo. I would tend to disagree. It's interesting what you mentioned. I wrote the word 'guide' while you were talking, and I thought as we now relocate some of these ethnic Albanians from Kosovo elsewhere, including to the United States, we should have a basic guide focusing on these crimes under the statute so that an individual could identify—not to investigate but could simply identify—individuals who could bring to the table information that would be helpful to the Tribunal; and then we could create some mechanism where that information is forwarded to the Tribunal. Because my fear now is that when we displace some of these individuals from Macedonia, from Albania, we may lose this type of information. And I think this information would, in fact, help the Tribunal and help the investigators, because I think that's what they are missing right now.

Dr. LEANING. Could we offer—

Mr. SMITH. Yes, please.

Dr. LEANING. —a strong concurrence to this suggestion. We have written a letter to Ms. Abruro about our possible participation in the collection of evidence, and her response was positive. What is not yet in place is a guide, as Mr. Ellis said, a protocol that could be distributed to a wide range of groups that are currently engaged in the gathering of evidence, or even at a higher level the identification of people who might have a story so that over the next couple of months there could be a really robust documentation of these issues that are really on a very large population scale.

Mr. SMITH. That is an excellent suggestion and something I think we will promote from our side of the equation as well, because information and memories do lapse over time. The more trained people who are out there—deputized if you will—to collect that information and feed it into a source, the more I think a guide would be very, very helpful.

Mr. ELLIS. Yes, I think this could work.

Mr. SMITH. I do, too.

Let me ask two final questions and then yield to Mr. Hand, our resident expert on the Helsinki Commission, for any questions he might have.

Ms. Lindborg, you talked about returning the refugees. We know that that is always something that if it can be achieved—returning people to their own homes is certainly a viable option; and we see it happening everywhere where people do escape, at least for the short term. And yet, I believe there also needs to be a provision—and we have not done it, whether in Rwanda or Bosnia; we didn't do it sufficiently in Bosnia—for those people who would seek to emigrate to another country because their well-founded fear of persecution is so profound that it's not likely they could return any time soon without carrying harrowing scars and, perhaps, even a return of the reason they left in the first place.

Do you know if there's any evidence of the international community's providing any opportunity for interviews to determine whether or not some of those people—I mean the 20,000 that we have offered to take temporarily—just can't return for whatever reason? It seems to me that generosity would dictate that a more open-armed policy be established by the international community to take those people in.

Ms. LINDBORG. I know that there are a number of negotiations going on among various countries to address exactly that, and I don't have for you the outcome of that.

However, one thing I would underscore is that unlike Rwanda and unlike Bosnia, this is not a return of refugees to the same kind of multi-ethnic community. For the most part, you are looking at 90 percent Albanian, ten percent Serbian and other. So, presumably, if one is able to return any, one could return almost all under the kind of security guarantee that would be necessary to even start the conversation.

Mr. SMITH. But we've been getting reports from some of the Roma that they are concerned because they are a minority within those who are fleeing, that they might not find a safe haven anywhere else abroad. They may not be among the welcomed going back. They are concerned about humanitarian disbursement of the humanitarian goods, concerned that they may not get their fair share. Has there been any provision made for them, or do you think there should be?

Ms. LINDBORG. I think there needs to be, and I think it's also important for us all to recall that there was a significant population of Kryena Serbs who have now been doubly displaced. They were resettled, against their will for the most part, in the Kosovo area, and now, of course, have fled again; and I think that if there is a return the Serb minority will need the same kind of international protection that all of us are calling for now for the Kosovar Albanians, and that is a strong commitment that all of us do and must make.

Mr. SMITH. Thank you, your point is well taken on that as well.

Mr. Hand?

Mr. HAND. Thank you.

Dr. Leaning, I was wondering if you could comment on how the results of your findings—when you had first gone to Kosovo and reported what you saw in the hospitals and with the health care facilities, how the international community made use of that information. For example, did the OSCE mission—did they then start to visit hospitals, health care facilities, and monitor the situation there more closely?

I ask this in part because the OSCE is having a seminar on field missions and human rights towards the end of this month in Warsaw, and it raises the question of whether one of the recommendations should be for field missions everywhere the OSCE has—whether it's in Bosnia, Kosovo, wherever—that they go and visit places like hospitals and monitor what's going on.

So if you could comment as to how the OSCE and other organizations reacted to your findings and what they said they would do to try to correct the situation.

Dr. LEANING. Well, thank you.

We first of all should note that the widespread systematic attacks on physicians and ethnic Albanian medical facilities is somewhat unprecedented, in our view, of even ethnic and communal conflict over the last 10 or 15 years. It was highly unusual and orchestrated, and if one is building a bill of particulars to put in the category of war crimes, as well as crimes against humanity, this activity—it was highly organized, we think, from the top—should be explored in depth, because what the result turned out to be had two prongs. One is, as we mentioned, the harassment, intimidation and with some hundreds, we think, the forced exile of a very highly professional class of ethnic Albanians; but secondly, the deprivation of health care to large numbers of people in dire need in the setting of a war, in a context where health care was already pretty meagerly disbursed within the countryside. So it created great suffering and was, in our view, a constitution of international law in the setting of civil conflict.

We also noted that in the hospitals ethnic Albanians, particularly those who came from the contested areas—and when I say "came from," I'm talking about people who were so sick they couldn't be cared for in these country areas and had to sneak through the night to get into the cities where the hospitals were and then first went to the private clinics run by ethnic Albanians, because they thought they'd be treated more mercifully; those clinics would not be equipped to handle their serious either surgical or medical conditions; therefore, virtually against their will they were most reluctantly brought to these hospitals. So, these people in these hospitals were treated essentially as terrorists, as combatants, but not just as combatants; using the word terrorist, the Serbians were trying to push this population of people outside the reach of the Geneva Conventions.

And this meant that women, children, old men, were chained to beds, were not allowed to see their families; great amounts of money were extorted from them. There are instances of Serbian armed police rushing into the intensive care units and breaking all rules of medical neutrality and disrupting sterile procedure. Isolated but consistent reports across several hospitals in many cities of Serbian police rubbing out cigarettes on the backs of patients coming out of the operating room when they were still recovering from anesthesia. These are ethnic Albanian patients.

So this detailing of systematic abuse of physicians, intimidation of medical personnel, and harassment of Albanian patients—when we brought it to the attention of the international community—created a laudable amount of outrage and consternation, because as I said at the outset, this is unusual. And people were at first somewhat incredulous, except for a few in the humanitarian community who had already seen it and for a few in the very experienced professional

humanitarian community—and here I'm referring to the ICRC, who, I'm sure, had seen it but would not comment because of their mandate.

We spoke with Julia Taft about it. We spoke with the heads of some of the humanitarian organizations about this. We mentioned it to the head of Mercy Corps, and it created a galvanization and a discussion of this which we think was very positive.

OSCE—its Human Rights Division—began to monitor the hospitals and medical facilities; some of the humanitarian organizations began to be much more careful about where they brought supplies. They began to bring ethnic Albanians into their organizations, not just as interpreters but also as doctors. They began to pay much attention to the treatment of Albanian patients in Serbian-run facilities.

So, I think when we were there—I know when we were there in March—not specifically in follow up to this but because we were traveling around we could follow up—we found a much higher level of awareness, observation, and vigilance on the part of the humanitarian community and OSCE to be engaged in surveillance and intervention on these issues.

Mr. HAND. Thank you.

Mr. Ellis, I think you did a very good job in sort of defining genocide, crimes against humanity, and rejecting a lot of arguments that are made in public which try to narrowly define them in order to deny that they are occurring. You also made the case about indicting Milosevic.

The one thing that comes up, beside defining the crimes, is the issue of what evidence you actually need; and whereas there is a lot of evidence regarding the crimes that are being committed, Milosevic has been a master of deniability. You go in and meet with him, and he says he knows nothing about this and claims he's trying to do this. He was a master of that during the Bosnia conflict.

In order to actually indict him, you actually need to have a smoking gun, evidence that he ordered some action, the type of things that we are looking for from our intelligence community; or do you believe an indictment could actually come from all the evidence that's publicly available now?

Mr. ELLIS. I don't believe that you need a smoking gun, but you probably need something more than what I discussed regarding a pattern of conduct. But the pattern of conduct is something that I would, as a prosecutor, focus on primarily right now, because within the rules that type of evidence can play a very important role in setting at least a prima facie case. So I believe that on the prima facie case the pattern of conduct can play an important role.

Now, you get the indictment. Can you get the conviction? I think you need more than a pattern of conduct, so I would look at this as two steps. The first step would be the indictment, which is what we are focusing on right now; I would place a good deal of emphasis on this pattern of conduct, and under the Tribunal's rules there is a list of the conditions or some of the elements that can help show a pattern of conduct.

From that point on in a trial you would have to show more, but I would focus now on the indictment; and I think there is a sufficient evidence to prove a prima facie case for an indictment.

Mr. SMITH. Thank you.

I want to thank our very distinguished witnesses again not only for your testimony but more importantly for the work you've done on behalf of those who are suffering and the work you will continue to do. And, it is to be hoped, we can all work together—our Helsinki Commission, the Congress—in a bipartisan way can be part of the solution in the coming days, weeks and month.

Thank you very much. I look forward to seeing you again in the near future.

(Whereupon, the hearing was adjourned at 12:44 p.m.)

APPENDICES

WRITTEN TESTIMONY OF NANCY LINDBORG, VICE PRESIDENT, MERCY CORPS INTERNATIONAL

APRIL 6, 1999

Thank you Congressman Smith for convening this hearing today. Thank you Mr. Hoyer. I appreciate the opportunity to address the Helsinki Commission today as we all grapple with the overwhelming crisis unfolding in the Balkans.

I would like to begin by underscoring that this current nightmare didn't begin with the airstrikes. Mercy Corps International has worked in Kosovo since 1993, providing humanitarian relief to Kosovars. What began as a small assistance program in 1993, helping 15,000 of the most vulnerable, ballooned into a beneficiary list of 200,000 by late 1997 as unemployment among Kosovar Albanians ran as high as 70% due to their exclusion from all state jobs and institutions. In February 1998, violent conflict erupted after nine years of determined peaceful resistance by the Kosovars. For the last year, Kosovars have withstood the burning of their homes and fields, forcible evictions of entire villages and killing of innocent civilians.

As we watch the news footage of refugees pouring across borders, we need to remember that for many of them, this is not the first time they have left home with nothing. Last summer, there were nearly 500,000 internally displaced people within Kosova, and even in the weeks before the airstrikes, there were still 240,000 in Kosovo unable to return home. What is notable, however, is the relatively small numbers who previously took the step of crossing international borders. They preferred instead to stay in the region, close to their homes, staying with host families or camped in the hills and ravines and waiting the first chance to return home and begin rebuilding.

Obviously that is no longer possible, as we witness the capstone of Milosevic's ongoing and unambiguous campaign against the Kosovars, and as we witness the brutally forced evictions of Kosovar Albanians not only from their homes but from the entire region.

I was in Macedonia for the first six days of the bombing, and I heard from our local staff remaining inside Kosovo the growing horror they faced as the Serb military and police began systematically to erase them from the region. The last contact we had with our office manager in Pec was a phone call the morning of Saturday, March 27, during which he reported with terror that over 100 people were in his family's compound in the center of the city, where most of the Albanian population lived. The Serb military was lobbing shells in the city center now in flames, and physically beating back anyone who tried to leave. And then the phone went dead.

In Pristina, in the first days of the airstrikes, residents reported posters throughout the city warnings them to leave before they were killed. We have heard stories from hundreds of refugees who were forced from their homes at gunpoint and under shelling, stripped of all documents and possessions. We are now seeing the refugees flood-

ing across borders on tractors, on foot, in buses and trains in a tidal wave that threatens to destabilize the frontline countries of Macedonia, Albania and Montenegro.

Now, the refugees face a new horror. In Macedonia, almost 50,000 refugees remain trapped in "no-man's land" between Kosovo and Macedonia. Many have been without food or water for five days in miserable and muddy. Sanitary conditions are abysmal, with no latrines or washing facilities. We also have reports of a line of vehicles some 20 kilometers long snaking back into Serb territory, where the fleeing Kosovars still face further reprisals. Mercy Corps is one of a handful of relief agencies able to negotiate entry into the border area, and our teams have been working around the clock for the last several days, providing medical attention, food, drinking water, plastic sheeting and blankets.

UNHCR has set up a main transit center was set up to house 10,000 refugees awaiting registration. Sanitary facilities are being prepared, and additional relief supplies are staged and waiting distribution. NATO is in the process up setting up five collective centers throughout Macedonia and more will be constructed as the need arises.

However, this tidal wave of refugees has overwhelmed Macedonia, taxing its ability and willingness to respond. Consider the impact of 130,000 refugees in a country of 2.1 million people, with an already delicate balance between the Albanian minority and the Macedonian majority They have just had an influx equaling more than five percent of its entire population, equal to about 15 million people swamping the US in four days—or the entire population of Norway, Sweden and half of Finland coming ashore. In addition, this is occurring in a country that had 40% unemployment at the onset of this emergency.

Tensions are rising as a result on all sides. Macedonian officials are dragging their feet, refusing to efficiently register any refugees or let any more into their country Relief workers are frustrated with the inability to help people trapped, literally and figuratively, in no-man's land.

Montenegro is facing an even more ominous set of fissures as it copes with 50,000 new refugees while balancing western friendliness against pressure from Belgrade. Mercy Corps is distributing food to refugees in Ulcinj and Rozaje today, but tomorrow we may be facilitating escape routes if threats continue against the current government

In contrast, Albania has mobilized its government resources to assist with the more than 100,000 refugees, and NATO has moved in with logistical support to the UN and international relief groups to bring food, water and shelter to the refugees camped along the borders. Refugees are quickly being moved to host families and collective centers throughout the country. However, Albania was barely feeding its own people before this crisis and will require massive assistance to ensure its ability to forestall collapse.

The international community has three overwhelming responsibilities right now. The first is to provide the best care possible for the refugees; the second is to ensure these frontline countries don't collapse under the weight of these refugees, and the third is to press forward with all means possible to ensure these refugees are able to return home in a secure environment.

1. The international relief community, with assistance from the military, has already mobilized resources to assist the refugees with immediate emergency needs. Many relief organizations like Mercy Corps have evacuated Kosovo and are now operational in the region. For example, we have transferred our operations to Macedonia and Albania and continued our Montenegro operations. With private resources and early funding from USAID, we were able to purchase emergency food and supplies for tens of thousands of refugees and immediately begin distributing aid. We are working together with our colleague agencies, the U.N. system and now the military to ensure supplies are brought in as fast as possible. More is needed and more must be done as quickly as possible to ensure the refugees receive the necessities.
2. We must provide Macedonia, Montenegro and Albanian with the political and financial commitments they require to maintain stability and continue accepting refugees. A plan is now underway to transport refugees into third country asylum, which further tears apart family members. Although this step provides important assurances to these frontline countries that they are not alone in this crisis, it should only he used as a last resort. We should first attempt to provide these countries, and Macedonia in particular, with the economic and political support it requires to overcome the tensions causing their reluctance to accept refugees. On a small scale, Mercy Corps is developing programs that provide economic assistance to the local populations of Albania and Macedonia while also assisting the refugees, to help ease further tensions from developing, These kinds of programs are critical.
3. Most importantly, we must collectively reaffirm that our first priority is to return the Kosovars to their homes as soon as possible. We must press forward with all means possible to ensure these refugees are able to return home in a secure environment. One lesson from Bosnia is that we signed a peace agreement that did not provide adequate security for returning refugees — many of whom are still not able to return to their villages. We have seen the Kosovars return in the past to the skeletal frames of their homes and live under plastic sheeting in order to plant their spring crop. They are committed to returning; we must help them do so.

Finally, just as this crisis did not begin with the airstrikes, neither will it end with the airstrikes. We must acknowledge now a long-term commitment to helping these refugees return and rebuild their devastated homes and communities. Mercy Corps has worked with these people for six years, and we are committed to working with them now in the refugee camps and back in Kosovo to put their lives and homes back together from the current wreckage. This vision requires a strong financial and political commitment from the entire international community.

Thank you Mr Chairman.

STATEMENT OF JENNIFER LEANING, M.D.
PHYSICIANS FOR HUMAN RIGHTS

Good morning. Mr. Chairman. Thank you for the opportunity to participate in this panel and to address your committee on the topic of the catastrophe in the Kosovo region. My name is Jennifer Leaning, M.D., S.M.H., and I am a member of the Board of Directors of Physicians for Human Rights and Senior Research Fellow, Harvard Center for Population and Development Studies.

Two humanitarian crises are now unfolding in Kosovo and the region, both raising great core challenges of timely response. The first is the ongoing destruction of the Kosovar community in Kosovo, a rapid campaign of ethnic cleansing and social obliteration being waged by Serbian forces under the direction of President Milosevic; and the second is the public health catastrophe exploding on the border areas of Albania and Macedonia.

At the outset, I would like to share with you the most recent information from the Geld situation where PHR's physician investigator is working, on the border of Macedonia. The camp is a huge, stinking pile of garbage and dirt. Our doctor reported the following this morning:

> "Walking through the camp last night was like being on an archeological dig. People who have waited for days to cross the border are starting to give up. One family I talked to said that they stood in line for eighteen hours; another woman was desperate to cross but couldn't wait in the crowd with her elderly, immobile mother. I cannot say strongly enough how great the fear is that if they leave the area they will never see their families again. People are desperate to find their loved ones ... Everyone needs a phone: ATT should provide phones so that they can reach relatives in Macedonia, Germany, or the U.S.
>
> A tent with twenty-five immobile and retarded persons were barely attended to because few of their family members had arrived to care for them; they had no bed pans, no caretakers... the tent stank to high heaven.
>
> "I talked to a man who said. "My wife; she collapsed at 8:30 this morning and went to get first aid. The (Macedonian police) wouldn't let me come with her; I want to know if she's alive." No one is taking names. If I find this patient, will I be able to climb down this vast sea of feces and find this exact man to tell him again? By the same token, how will his wife ever find him again? And what if they get on busses and are taken to different places."

The refugees cannot leave the border area or receive assistance there. An OSCE representative told PHR that the Macedonian government was resisting taking in the refugees until other countries agreed to provide refuge to them. On Saturday night, PHR's representative reported that the mass of Albanian. refugees stretched for at least a mile long and a football field deep on a field of mud. Some stood. Some huddled under makeshift lean-tos. They had no toilets, little food and the mud caked their shoes and legs. Their loss of strength and hope showed itself today as many streamed to the medi-

cal aid tent. The medical situation, while grave now, will become disastrous if they continue to be denied adequate shelter, food and sanitary conditions.

Other refugees are trapped in their cars or, having left their cars behind in Kosovo, standing between the official border crossings. Until tonight, they had little aid. One woman interviewed said she had not received assistance for 4 days. This appears to be due both to the fact that these refugees have had to wait for days on the Serbian side of the border. Then, once they crossed to the Macedonian side, international humanitarian agencies were not allowed by police to enter the "no man's land" to provide aid for them. Some assistance was being provided by local Red Cross workers around the clock, but they were overwhelmed by extent of the need.

As night approached. it grew cold and the rain made people colder and soaked wood so that fires could not be started. One 26-year old woman said she was forced to leave her Pristina home on Monday, spending a night on the street with nothing to eat before being taken here by rail four days ago. The mother of four, ages 6 months to 4 years said, "It's so cold. The children are so cold. It's so bad. Poor children. Poor people. I don't have words to say for this situation." She pointed to her feet, which were in too-small lace-up shoes stretched wide open. "I don't have shoes because I didn't have time to take them," she said.

There seemed to be no system of passing through the border for the people in the fields. People in the fields reported that they had no idea what the process was they had to go through to cross into Macedonia. When asked if there were Macedonian officials there to register them, one woman said, "yes, they come and work for 5 minutes and say, 'I can't any more because of the crowd.'"

The main border crossing was more organized and tightly controlled by police in riot gear, but operating at a snail's pace. Cars were parked four or five deep and fender to fender along the mile-long crossing in the evening. Despite this, only 2 passport-checking booths were open to register families.

Special police ringed both refugee areas and kept control not only by their appearance—flak jackets, hard helmets with face shields and guns—but by yelling at the refugees. In two independent interviews conducted by PHR, witnesses said they had watched a child being trampled after police pushed back a crowd. The PHR physician witnessed one boy of approximately 13 being treated in the medical tent after being crushed.

At one point, part of the crowd suddenly broke into a run as a tractor rumbled its way through the crowd, its riders, from the local Albanian humanitarian organization Al Hilal, tossing bread and milk to the people.

MEDICAL CONDITIONS

Despite the huge numbers of people in distress and suffering from serious medical conditions, medical aid was almost non-existent. Getting access to the medical tent is itself technically difficult for the population. Sick people had to cross out of the valley of mud and grass and pass police in riot gear in order to reach an emergency tent. Police sometimes refused to let sick persons pass. When they did allow

passage, it was frequently only for the ill person, causing the separation of family members. Another medical aid tent was placed amid the refugees in far reaches of the muddy field.

The medical staff at the tents were terribly overworked and understaffed. Saturday morning, a vehicle belonging to a medical organization was turned back at a police checkpoint on the way to the border and, as a result, the doctors and nurses were unable to relieve the workers who had been there overnight. When the PHR physician-investigator arrived, care was mainly being provided by two or three tired nurses. The situation improved when a medical vehicle arrived with more physicians and nurses. Many of them are Kosovar medical personnel who have just crossed the border themselves as refugees over the past few days and are themselves exhausted.

As the day progressed, more and more patients were being brought into the medical tent with signs of dehydration, exhaustion and extreme stress. When individuals arrived for medical care at a large green medical tent. they found it already packed with people. They were brought in and placed side by side on foam pads, some covered by blankets, which quickly grew muddy and wet. Medical workers kneeled in the mud to attend to the patients. Early in the day, patients waiting to be seen stood in line outside the tent in the rain.

The refugees are now in area of public health crisis. Excrement is lying on the ground and being stepped on and spread about. PHR's investigator observed two deaths during the day and found one case of suspected cholera.

In addition to the medical situation of the refugees, PHR has received information that the Pristina hospital was emptied of its Albanian patients beginning last weekend. A 33 year-old nurse working in the infectious disease service said that Albanian doctors and patients were told to leave the hospital last Sunday by police. She said the hospital was closed to all but heavily wounded patients. When she came to work on Monday, the only people she saw at the facility were police, who told her to go home.

By Tuesday, April 6, medical conditions appeared to be improving, as more doctors and nurses entered the area.

ACCESS TO REFUGEES

Access to the refugees is severely restricted. This is partly due to the Macedonian police, who have set up check points on the way to the border and prevent journalists and sometimes aid workers from getting in. PHR's physician-investigator was stopped at the border two days ago by police and, after providing identification, was told, "there are enough doctors in there." The PHR physician was later allowed to enter, but only after the invitation from a physician inside. Representatives of the local Albanian refugee agency also told PHR that it had also experienced difficulty in obtaining permission to provide assistance to the refugees.

FOOD

Some refugees have not eaten in three or four days. Food is available in some areas but not others. Even where available, distribution is chaotic. PHR's physician went into the "no man's land" between the official borders at approximately 9 p.m. on Saturday night. Only one small vehicle made the trip with about 15 boxes of supplies, in-

cluding lollipops, candy bars, crackers, diapers and French meals-ready-to-eat ( ). Repeated trips were planned. However. there were only about 40-50 MREs in this batch and despite efforts to get the food to children, individuals were pleading for food and the distribution was haphazard.

After the distribution was done, one tired-looking woman politely pleaded for help for her family. "Please, just some milk and crackers," she said softly. "I have four children, and I haven't anything to feed them."

*****

In the last year, Physicians for Human Rights (PHR) has observed at close range the unfolding calamity in Kosovo and has issued six assessments with calls for vigorous and far-reaching Western action: Our calls for Western response have been particularly sharp because we have witnessed the pattern of Milosevic's state action throughout the last eight years in the Balkans, and could point with strong certainty to the end-state he intended for Kosovo.

In early March of 1998, after the massacres in northern Kosovo, we attempted to assist in forensic investigations and called for international action to stop the brutal assault of Serbian Forces against Kosovar civilians.

In late June of 1998, as the Serbian war against the civilian population of north and western Kosovo progressed with swift ferocity, leading to the sudden flight of 12-15,000 refugees over the border into northern Albania, we sent a mission to that area, interviewed refugees, and predicted a widening war, an eventual flood of tens of thousands of refugees into Kukes, and called for the introduction of ground forces into Kosovo to halt the campaign of ethnic cleansing that was clearly underway.

In late December, 1998, after a four-month investigation of attacks on physicians and medical care throughout the Serbian campaign against the Kosovar population, attacks aimed at crushing the leadership of Kosovo civil society and undertaken in blatant disregard for international humanitarian law, we again called for the introduction of ground forces to separate the warring parties (because by this time the KLA had become a force of its own to reckon with, and to establish the prompt withdrawal of Serbian military and police forces from Kosovo.

In late January of 1999, after the massacres at Racak and when it was clear that an unarmed monitoring presence could not prevent or withstand the deliberate and calculated annihilation tactics initiated by a heavily ed military, we again called for the introduction of NATO ground forces.

In late March of 1999, as the Serbian campaign of ethnic cleansing reached unprecedented proportions, we issued a strong plea that NATO, in addition to sustaining and intensifying its air campaign, proceed to introduce ground troops as well.

And just yesterday, on April 5, 1999, as the affliction of hundreds of thousands of Kosovar refugees and deportees entered its second week without sufficient introduction of life supports, we called upon the international community and NATO to embark upon a number of measures to maintain open borders and provide immediate relief to those longest stranded without food, water, or shelter.

Based upon our experience over this past year, we have the following observations and recommendations:

OBSERVATIONS:

1) This crisis took a year to unfold but its features were evident very early on. There were many points along the road when the West could have intervened politically, diplomatically, and militarily with far less cost and risk than now confront us.
2) The October Holbrook-Milosevic agreement yielded one unexpected outcome, the successful use of unarmed monitors in large numbers in the field to inject a measure of restraint, visibility, and accountability to hold conflict to a low simmer for a short period of time; and one expected outcome, the blatant and almost immediate violation by Milosevic of the military terms of the accord, a violation which by early January and into February has managed to shift the military balance of power to the point where armed intervention to oppose him has become almost inevitable.
3) In the late fall and winter, PHR investigators found a systematic campaign on the part of the Serbian authorities and military to break the spirit of civil society, to terrorize and kill in moderate numbers in order to force much larger numbers into flight, and thus to accomplish the depopulation of large areas as of Kosovo.
4) In March of this year we saw how rapidly the Serbian forces had managed to build up their strength, bringing in approximately 45,000 regular soldiers as well as thousands of special forces police, at least 400 tanks, many APCs, extensive artillery batteries and much augmented military air capacity. The presence of this military force was brandished with menacing insouciance: tanks moving at 60 km per hour on the main roads, APCs rumbling in towns and villages, parked at numerous checkpoints on all main roads, large groupings of heavily armed soldiers and police at most corners, most intersections, moving day and night. Little attempt was made to camouflage the artillery batteries or main troop areas. A sense of jeopardy prevailed in ail activities; local people did not go out after 6 p.m.; it was dangerous for young men to be out in public at any time; the humanitarian community imposed informal curfews of 9 or 10 p.m. for all staff. Checkpoints were omnipresent; few if any private vehicles were on the main roads at any time. In attempting to conduct seminars on human rights and medical ethics, our purpose in being there during this time, it was necessary to rely on the OSCE for all logistic and transport support, since only utility vehicles with official humanitarian or OSCE markings could travel with relatively little interference between the main cities of Pec, Prizren, and Pristina.
5) All hopes rested on a positive report from Paris after March 15th, but almost everyone in Kosovo feared that Milosevic would not relent. By the morning of March 16th, it was evident that we were all witnessing a rapid slide into outright war. The tanks prowled the roads in great numbers, swinging off precipitously into the fields and hills, leaving tracks in the mud and snow, heading off to do damage to more remote hamlets. Mortar shell-

ing could be heard during the day, even in Pristina. An increasing number of killings of Kosovo civilians were reported from all sites. North, central, and southwest Kosovo became entirely unstable. As of March 19, estimates of newly displaced populations on the run within Kosovo reached 66,000—for that short week alone.

6) My colleague and I were scheduled to leave on an afternoon flight out of Skopje, Macedonia, on March 20. The probability of NATO bombing, preceded by the requisite withdrawal of most humanitarian agencies and the OSCE (lest they become hostage to the Serbian military, patterned on earlier experience) led us to leave a day earlier. On March 19, even in an OSCE vehicle, the road south from Pristina to the border was perilous. The traffic was entirely Serbian military vehicles and tanks: only a few other OSCE vehicles were on the road. Snow had fallen the night before, the road was dangerous and slippery, but still the Serbian tanks and APCs moved very swiftly. Virtually always in eyesight were Serbian troops and police, along the edge of the road, in the hills, at intersections. High alert status was palpable in Kacanik, the southern border town of Kosovo that had seen much killing and destruction throughout early and mid-March. We crossed into Macedonia with a sense of war behind us.
7) When OSCE began to leave the next morning, packing this road south with their 500 orange vehicles, they left with a sense of dread and sorrow, shared by all of us who had traveled throughout Kosovo during those past few weeks. A bloody conflict was inevitable, rendered more brutal now that the control rods, the OSCE verifiers, were being pulled out. As anticipated, all restraint imposed by official witnesses was immediately thrown away, and the Serbian forces began to move rapidly, destructively, and with evident abandon against all civilian targets in Kosovo: people, villages, homes, livestock, farms. cultural and religious sites. They had been doing all of this before and it was clear that their intent had been to do it all whether there were witnesses or not. But without observation, the speed accelerated greatly and the efficiency of gross ethnic cleansing was catapulted to new heights.
8) The delay in NATO bombing, from March 20th until March 24th, gave the Serbian military a grave head start on the campaign of atrocity they had already embarked upon. Already by late October 1998 official estimates stated that 1/3 of all villages in Kosovo had been destroyed, 1/3 seriously damaged, and 1/3 left intact. In March, it was impossible to travel on the main roads of Kosovo and see one single intact village or settlement from the road. Virtually every town or intersection or settlement of any size, and many small hamlets also visible from the roads, had sustained significant or thoroughly destructive damage from the Serbian onslaught. So it was abundantly clear to all of us in Kosovo at that time that it would not take long for the Serbian military to clear out Kosovo completely compel people to flee from terror, kill those who hesitated, herd off and possibly execute most young males in their way. The NATO bombing did

not cause what is now happening. What is now happening is a speeded-up version of what has been happening for a year, and what has been planned to happen for longer than that.

9) Time is now absolutely the critical element if, as the West has stated, the civilians in Kosovo are to be protected. Kosovo is a tiny place: you can drive across it in an hour and a half; on a high hill you can see for miles across the deforested plains: the woods are thin and scant except on the mountainous fringes; from virtually any site 10 km west of Pristina you can see the mountain borders, the relative political sanctuary, of Albania and Montenegro. The Serbian forces are heavily armed and widely dispersed in strength throughout the countryside. Ethnic cleansing is an intimate activity: shell with grenades the outskirts of a town, kill a few people on the periphery, force through this terror everyone else to flee, drive in and rampage door to door, looting, stealing, pillaging, and then incinerate all structures. It will not take many more days for the Serbian forces to have pursued this pattern over every inch of Kosovo.

10) Protection of people is a robust and rich word, as conceived in international law and human rights discourse. It involves shoring up the physical security of persons, of course, but it also requires attending to their past and future, their sense of dignity and self-respect, their capacity to sustain family and community. Protection of the Kosovar population has been to date a lamentable failure. This failure, widely described, has been outlined in mainly physical terms–death, injury, flight, dislocation. What has not been adequately limned is the extend to which the pillage of homes and theft of person has stripped with entire population of all its worldly earned wealth, the economic product of generations of peasants who have kept their savings in gold, jewelry, and improvements in home and farm structures and equipment. There is no paper record of this wealth, except in deeds to land. Land is extremely scarce in this country, the most densely populated in Europe. A quarter acre of arable land goes for 100,000 Devi, or approximately $75,000. What the Serbian forces are now doing, as they burn all public records, after taking all goods and personal effects from the tens of thousands they have forced to flee, is to obliterate systematically all capacity to reconstruct this intricate and dense network of social wealth and settlement. Who, from now on, is to prove that a particular man without a passport, driver's license, or identity card, without deeds or bills of sale, owned this particular plot of land, with these boundaries? This query comes on top of the question, who will ever help to pay this particular man for the goods, livestock, and money he was forced to abandon at the hands of the Serbs? And this question must be added to the more general one. How will this population recover from, rebuild upon, be given restitution for the loss of some of its most beloved cultural and religious sites'? The burning of the old city of Djakova, a lovely old medieval town of wood dwellings, mosques, and other cultural sites, constitutes a grotesque assault on Kosovar sense of history, beauty, and continuity.

Physicians for Human Rights urges the following actions regarding refugees on the Macedonian border:

1. The Macedonian government must be urged in the strongest possible terms to open its borders and allow free flow and rapid processing of refugees and full access to these refugees by the humanitarian community. The Macedonian authorities should open multiple sites for processing entry of refugees and provide large numbers of staff to facilitate the entry of the largest number of refugees as quickly as possible.

2. The international community must immediately provide emergency supplies, transport, and personnel in order to shore up crucial life supports for this population of tens of thousands.

3. NATO countries should use troops now in Macedonia to assist relief groups and the Macedonian government in providing transport. shelter, food, medical care and water to the refugees now suffering on the Macedonia side of the border, including those in the "no-man's land" area at Macedonia's border. The OSCE should offer support and personnel for rapid processing of refugees.

4. The international community should provide Macedonian citizens and the government of Macedonia with support until refugees can return to their homes in Kosovo sop that Macedonian communities so not become themselves vulnerable to health crises and food insecurity.

5. NATO should immediately secure and defend a safe region within Kosovo where displaced people may be protected and aided in the short term. As quickly as possible, NATO and the U.S. should deploy a ground protection force to secure the withdrawal of Serb forces from Kosovo so that all refugees and internally displaced people can return to their communities.

IF NOT NOW, WHEN?
Only Ground Troops Can Stop the Genocide in Kosovo

by Holly Burkhalter

Reprinted from the Legal Times*, April 5, 1999*

Submitted by Dr. Jennifer Leaning

Every occasion of mass murder has its own unique history and characteristics. But as Serb forces herd men and boys to their deaths, close in on thousands of terrified families on the run, and complete the burning and ethnic cleansing of Pristina, one is reminded of the Bosnian genocide. And as Clinton administration officials bob and weave around the question of whether genocide is unfolding in Kosovo, I remember the precious weeks and lives that were lost in April 1994 when the United States equivocated and demurred over the question of whether genocide was taking place in Rwanda.

Genocide is the gravest crime that human beings can commit, and that term should not be thrown about loosely to convey outrage. Massacres, in and of themselves, do not necessarily constitute genocide.

The Convention on the Prevention and Punishment of the Crime of Genocide defines the crime as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group by killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

If we are to invoke the international Genocide Convention and its requirement that signatory nations prevent and punish genocide, we must be clear about whether the crime is occurring or about to occur. The convention distinguishes genocide from mass murder by requiring an intent to destroy an ethnically or racially defined group. We at Physicians for Human Rights believe that Yugoslav President Slobodan Milosevic's campaign of terror in Kosovo meets that standard.

Accordingly, we call upon the United States, as a convention signatory, to take action to stop this genocide and to punish the perpetrators.

It is impossible to speculate how many Kosovar Albanian civilians have died in recent days, weeks, and months because Milosevic-who learned from his mistake of letting international journalists report fully on the destruction of Bosnia-has severely limited access to Kosovo for journalists, human rights monitors, and humanitarian aid workers. But even with those limits, information is abundantly available that Milosevic's forces are accelerating a campaign they began a year ago to destroy the Albanian population. That campaign includes the murder of thousands of civilians and the methodical bombing and burning of hundreds of villages and towns.

Milosevic's strategy also entails the destruction of the Albanian community's leadership—through the targeted execution of Kosovar political leaders, doctors, independent journalists, humanitarian workers, and intelligentsia—as well as the destruction of cultural and religious sites.

But perhaps the clearest indication of Milosevic's intention to eliminate this community is the Serbs' well-organized program to terrorize and forcibly remove the Kosovar Albanians from their homeland.

On March 30, NATO spokesman Jamie Shea stated, "Pec was a city of 100,000 people. We now have reports that it has been almost totally destroyed. We also have reports of people, thousands of people from Prizren, being forced to leave on a forced march towards the Albanian border. . . . This is something that we haven't seen since the forced evacuation of Phnom Penh in Cambodia by the Khmer Rouge in the mid 1970s. And sustained Serbian attacks on Pristina, the chief city of Kosovo, are continuing."

Dr. Vjosa Dobruna, head of the Pristina Center for Women and Children, who fled to Macedonia as a refugee, reported on March 31 that only 30,000 of Pristina's original population of 200,000 remained in the city. The rest had been forced to flee.

At the time of this writing, the official estimate of the number of refugees, within and outside Kosovo, was 580,000-more than a third of the province's population-and there is no end in sight. And in a clear indication that the Serb authorities do not intend to permit Kosovar Albanian refugees to return to their homes, Serb police are confiscating car registrations and identity documents at the border.

On March 28, German Defense Minister Rudolf Scharping reported that "information reaching us indicates that genocide has begun." British Defense Secretary George Robertson agreed, noting, "What we see of what is happening and what we hear from those who have managed to escape, and from reports by the U.N. High Commissioner for Refugees and the International Red Cross, are enough, more than enough, to convince us that we are confronting a regime which is intent on genocide."

On March 29, State Department spokesman James Rubin appeared to concur, stating, "There are indicators that genocide is unfolding in Kosovo, but we are looking at a mixture of confirmed and unconfirmed reports at this time. There is no reason, however, to await confirmation of genocide because we can clearly say crimes against humanity are being committed by Milosevic's forces. The International [Criminal] Tribunal [for the former Yugoslavia] can impose life imprisonment, and that can be imposed for crimes against humanity, just as it can for genocide."

Rubin's suggestion that there is not really a difference between labeling the Kosovo atrocities "genocide" or "crimes against humanity" because the tribunal can impose life sentences misses the point. Does the Clinton administration really believe that the tribunal's potential penalties are deterring a "serial ethnic cleanser" like Milosevic, when he has not been indicted for past crimes in Bosnia?

The United States is morally bound to prevent or stop crimes against humanity, and it should not wait for the situation to deteriorate to the point of genocide to intervene. Indeed, Physicians for Human Rights has been calling for ground forces in Kosovo to protect civilians for a year. But the United States is not legally bound by its solemn treaty obligation to intervene unless genocide, as defined in the convention, is actually unfolding in Kosovo.

At a briefing for nongovernmental organizations on March 31, Larry Rossin of the State Department's Europe Bureau shied away from genocide, using the weaker term "ethnic cleansing." He stated that Ambassador David Scheffer was in the region to collect information on abuses so as to make a determination on whether genocide is occurring.

I hope Ambassador Scheffer concludes, as we do, that genocide is occurring and that he does so very quickly. Such a finding might help persuade the administration, which continues to forswear the deployment of a ground force to stop Milosevic's war against civilians, to reconsider. Though the NATO bombing campaign may eventually weaken Milosevic's war-making capacity, it is clearly not deterring Serb forces from accelerating their yearlong campaign to purge Kosovo of its Albanian majority.

Some observers are troubled that military action against Milosevic has been taken under NATO, not United Nations, auspices. The Genocide Convention's Article VIII states that convention signatories may call upon the competent organs of the United Nations to take action to prevent acts of genocide. But given that a Russian or Chinese veto on the Security Council would make humanitarian intervention in Kosovo impossible, the convention's first article-requiring action to prevent and punish genocide-takes precedence, in my view, over the U.N. mechanism suggested by Article VIII. In any event, the Security Council has issued numerous resolutions calling on Milosevic to end the use of force in Kosovo and withdraw the bulk of his troops-resolutions that he has ignored.

The United States must not wait until the unfolding genocide has been completed to acknowledge it and respond. President Clinton bears a heavy burden for his administration's refusal to act to stop genocide in Rwanda and Bosnia. Those precious lost lives cannot be redeemed with Kosovar civilians saved from dispersal and death. But an immediate intervention by NATO ground forces in Kosovo will save a people from destruction, and allow this president to be remembered as one who learned from the mistakes of the past.

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